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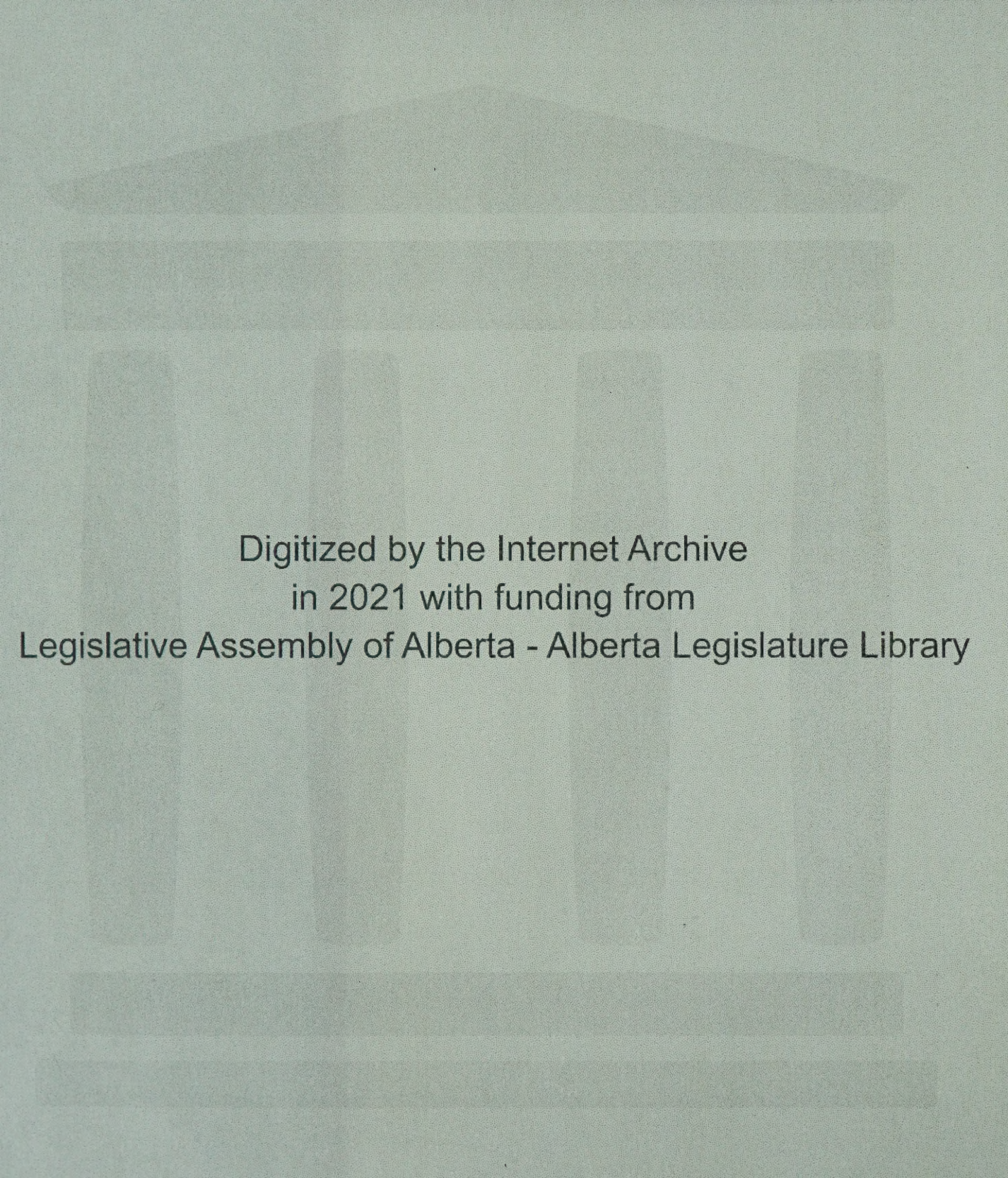
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# ORDINANCES

OF THE

## North-West Territories

PASSED IN THE FOURTH SESSION

OF THE

### SECOND LEGISLATIVE ASSEMBLY

*Begun and holden at Regina on the Seventeenth day of  
August, and closed on the Sixteenth day  
of September, 1893.*



HIS HONOUR

THE HONOURABLE JOSEPH ROYAL,  
LIEUTENANT-GOVERNOR.

---

REGINA :

PRINTED BY R. B. GORDON, PRINTER TO THE GOVERNMENT  
OF THE NORTH-WEST TERRITORIES.

1893.

THOMSON BROS.  
BOOKSTORE  
CALGARY, ALTA.







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## NO. 1 OF 1893.

AN ORDINANCE FOR GRANTING TO THE LIEUTENANT-GOVERNOR CERTAIN SUMS OF MONEY TO DEFRAY THE EXPENSES OF THE PUBLIC SERVICE OF THE TERRITORIES FOR THE FOURTEEN MONTHS ENDING 31st AUGUST, ONE THOUSAND EIGHT HUNDRED AND NINETY-FOUR, AND FOR OTHER PURPOSES RELATING THERETO.

*[Assented to 16th September, 1893.]*

MAY IT PLEASE YOUR HONOUR :

Whereas it appears by Message from His Honour Joseph Royal, the Lieutenant-Governor of the North-West Territories, and the estimates accompanying the same, that the sums hereinafter mentioned in the Schedule to this Ordinance are required to defray certain expenses of the public service of the Territories, and for other purposes relating thereto, for the fourteen months ending 31st August, one thousand eight hundred and ninety-four ; May it therefore please Your Honour that it may be enacted and it is therefore hereby enacted by the Lieutenant-Governor, by and with the advice and consent of the Legislative Assembly of the Territories, as follows :—

(1) From and out of the fund at the disposal of the North-West Government, there shall and may be paid and applied a sum (not exceeding in the whole) two hundred and seventy-four thousand five hundred and thirteen dollars and one cent for defraying the several charges and expenses of the public service of the Territories for the fourteen months ending 31st August, one thousand eight hundred and ninety-four, as set forth in the Schedule to this Ordinance :

(2) The due application of all moneys expended under this Ordinance shall be duly accounted for.

## SCHEDULE.

Sums granted to the Lieutenant-Governor by this Ordinance, for the fourteen months ending 31st August, one thousand eight hundred and ninety-four, and the purposes for which they are granted.

To defray the expenses of the Government of the North-West Territories for the fourteen months ending the 31st August, 1894, as follows :—

| SERVICE.                                                                                                 | AMOUNT.     |
|----------------------------------------------------------------------------------------------------------|-------------|
| Printer to North-West Government.....                                                                    | \$ 280 00   |
| Auditor's Salary.....                                                                                    | 280 00      |
| Expenditure under "The Ordinance respecting<br>Infectious Diseases of Animals".....                      | 2200 00     |
| Expenditure under "The Ordinance respecting<br>the Registration of Births, Marriages<br>and Deaths"..... | 1000 00     |
| Expenditure under "The Hospitals Ordinance"                                                              | 3000 00     |
| Expenditure under "The Liquor License Ordinance,<br>1891-92" and amendments .....                        | 6800 00     |
| Expenditure under "An Ordinance respecting<br>Infectious Diseases".....                                  | 1300 00     |
| For Prosecutions and Legal Proceedings under<br>Ordinances.....                                          | 2300 00     |
| World's Columbian Exposition .....                                                                       | 1100 00     |
| Balance due on contract with "The Western<br>World".....                                                 | 136 68      |
| Promotion of Immigration.....                                                                            | 3000 00     |
| Deputy Speaker.....                                                                                      | 100 00      |
| Executive Committee.....                                                                                 | 6083 32     |
| Partnership registration books and books and<br>stationery for Deputy Clerks and Sheriffs                | 150 00      |
| Library Insurance.....                                                                                   | 135 00      |
| Clerical Assistance.....                                                                                 | 14770 00    |
| Messengers and Caretakers.....                                                                           | 1680 00     |
| Carried forward.....                                                                                     | \$ 44315 00 |



| SERVICE.                                                   | AMOUNT.            |
|------------------------------------------------------------|--------------------|
| Brought forward.....                                       | \$ 44315 00        |
| Schools.....                                               | 114000 00          |
| Salary of D. J. Goggin.....                                | 3500 00            |
| Stationery, Telegrams, Postage and Telephone.....          | 3800 00            |
| Newspapers and Periodicals.....                            | 250 00             |
| Printing and Advertising.....                              | 8000 00            |
| Contingencies.....                                         | 1200 00            |
| Light and Fuel.....                                        | 1100 00            |
| Books for Library.....                                     | 500 00             |
| Transport and Supplies for Well-boring Machines.....       | 1000 00            |
| Roads, Bridges and miscellaneous District expenditure..... | 88028 01           |
| Travelling expenses.....                                   | 475 00             |
| Advertising Sittings of Court.....                         | 25 00              |
| Sheriff attending Court in banc.....                       | 65 00              |
| Law Books for Judges.....                                  | 300 00             |
| Inspection of Coal Mines.....                              | 900 00             |
| Elections for Legislative Assembly.....                    | 800 00             |
| Purchase and operation of Special Well-boring Machine..... | 2500 00            |
| Imperial Institute.....                                    | 1824 00            |
| Refund to Indian Department.....                           | 50 00              |
| Miscellaneous Outstanding Accounts.....                    | 1500 00            |
| Reward for Apprehension of Murderer of P. O. Skaalent..... | 200 00             |
| Conveyance of Members during Winter Session of 1892.....   | 181 00             |
|                                                            | <u>\$274513 01</u> |

## NO. 2 OF 1893.

AN ORDINANCE TO AMEND AN ORDINANCE  
RESPECTING REVENUE AND EXPENDITURE.

[Assented to 16th September, 1893.]

The Lieutenant-Governor, by and with the advice and consent of the Legislative Assembly of the Territories, enacts as follows :—

1. Section 6 of the Ordinance respecting Revenue and Expenditure is hereby repealed and the following substituted therefor :—

“6. If when the Legislative Assembly is not in Session any accident to any public work or building which requires an immediate outlay for repair thereof, or on any other occasion when any expenditure not foreseen or provided for, or insufficiently provided for, by the Legislature, is urgently required for the public good, the Lieutenant-Governor-in-Council may authorize the expenditure of the amount estimated to be required, and a statement of such expenditure shall be laid before the Legislative Assembly at the same time as the Public Accounts are presented.”

2. Section 8 of the said Ordinance is hereby repealed and the following substituted therefor :—

“8. The Public Accounts shall be prepared as soon as practicable after the close of each fiscal year and shall be presented to the Legislative Assembly at its next Session and shall include the period from the first day of September in one year to the thirty-first day of August in the next year both inclusive.”



NO. 3 OF 1893.

## AN ORDINANCE RESPECTING UNINCORPORATED TOWNS.

*[Assented to 16th September, 1893.]*

The Lieutenant-Governor, by and with the advice and consent of the Legislative Assembly of the Territories, enacts as follows:—

1. This Ordinance may be cited as "The Unincorporated Towns' Ordinance."

2. For the purposes of this Ordinance, the expression "Unincorporated Town" means any portion of land, not being within a Municipality, and not exceeding 320 acres, on which not less than ten dwelling houses have been erected for residence.

3. The expression "nuisance" means manure, offal, refuse, ordure, or any other matter whatever, prejudicial to the public health; also excavations, wherein foul matter may accumulate, or that may be otherwise dangerous to the public; also loose material of any kind that may endanger property by catching or spreading fire.

4. The word "voter" shall mean and include any person over the age of twenty-one years whose name appears on the last revised assessment roll of the School District within which the whole or part of the unincorporated town is so situated, as being assessed for property situated within the limits of the unincorporated town.

5. Whenever the Lieutenant-Governor-in-Council is satisfied by such proof as he may require, that any portion of the Territories, not exceeding 320 acres, no part of which is within the limits of any Municipality, contains ten dwelling houses, he may cause notices to be posted up in conspicuous places within such area, of his intention to

proclaim the same an unincorporated town after the expiration of thirty days from such posting.

6. After the expiration of the thirty days named in the notice hereinbefore mentioned, the Lieutenant-Governor-in-Council, unless a majority of the ratepayers within the area aforesaid, by petition addressed to him, object to such formation, shall by order, create the said area an unincorporated town, describing its limits, giving it a name, fixing a day for the election of an Overseer and appointing one of the voters of the said unincorporated town to act as Returning Officer at the election of such Overseer; and such order shall be published in the North-West Territories Gazette.

7. The returning officer shall, by public notice posted up in three conspicuous places within the limits of the unincorporated town, call a meeting of the voters for the day fixed by order aforesaid for the election of an Overseer.

(a) The said meeting and all future Town meetings shall be held at the hour of ten o'clock in the forenoon of the day appointed which shall not be Sunday nor a statutory holiday, and shall continue until a majority of the voters present carry a vote for the adjournment of the meeting until a future time, or for its closing.

8. The meeting shall be open for one hour to receive nominations and if at 11 o'clock more than one candidate is nominated, then the returning officer shall proceed to take the vote of the meeting which shall be by open voting and shall continue from 11 o'clock a. m. until 1 o'clock p. m. under the direction of the returning officer and at the hour of 1 o'clock p.m. the returning officer shall declare the candidate who has at that time received the greatest number of votes duly elected.

9. Every person desiring to vote for an Overseer shall, before being allowed to vote, sign a declaration in the form "A" of the appendix to this Ordinance, and his vote shall then be recorded by the returning officer.



Provided that any person falsely declaring himself a voter within the unincorporated town shall be liable upon summary conviction before a Justice of the Peace to a fine of five dollars and costs.

10. The returning officer shall make a return to the Lieutenant-Governor-in-Council as soon as may be after the election of an Overseer, showing who has been elected and accompanying his return with the declarations signed by the voters and shall accompany the same with a declaration as in form "B" of the appendix to this Ordinance.

11. The Overseer shall give bonds to the Government of the North-West Territories to the amount of \$400 in two sureties of \$200 each, for the due performance of his duties and the correct account of all moneys received by him: and such bonds shall be duly executed before the returning officer and shall be forwarded by him to the Lieutenant-Governor-in-Council with his return of the Overseer's election.

(a) If the Overseer elected fails to give the bonds herein required within forty-eight hours from the date of his election, the returning officer shall declare the election void and shall call another meeting of the voters by not less than one nor more than two weeks notice, for the purpose of electing an Overseer.

12. At a meeting called for the purpose of electing an Overseer, and after the Overseer has been elected as hereinafter provided, the returning officer shall continue to preside as chairman and shall receive motions, which must be handed to him in writing with the names of a mover and seconder, and shall put such motions to the meeting as chairman thereof, and the majority of the voters present at the time of the putting of the motion shall decide by their votes to be given as directed by the returning officer whether or not the motion shall carry.

13. The returning officer shall provide a minute book in which he shall keep or cause to be kept a record of the meeting, which record shall state in full the motions made by whom they were moved and seconded and whether they

were carried or defeated, and motions may be put to such meeting on the following subjects:—

(1) To decide the rate of assessment for the ensuing year, such rate not to exceed a rate of five mills on the dollar.

(2) To decide where and to what extent public improvements to streets, construction of sidewalks or other public works shall be undertaken.

(3) To decide whether or not animals shall be allowed to run at large within the unincorporated town.

(4) To decide regarding the securing of appliances and a water supply for fire protection purposes.

(a) The returning officer shall within one week after the election deliver said minute book to the Overseer who shall hold same as the property of the District and have kept therein the records of all subsequent meetings.

14. The motions on any of the above subjects carried at such meeting shall be binding upon the Overseer for the year in which they were passed or until rescinded by a future meeting called by the Overseer as hereinafter provided.

15. The Overseer at any time by public notice of at least one week may call a meeting of the voters of the unincorporated town on such day and for such place as shall be named in the notice for the consideration of such subjects as may be set forth in the said notice, subject to provisions of Section 13. The hour in all cases to be two o'clock in the afternoon and the day not Sunday or a statutory holiday.

16. Every such meeting shall by a majority of the voters present elect a chairman and secretary, neither of whom shall be the Overseer, and the chairman shall have the same powers at such meeting and the resolutions of the meeting shall have the same force as the meeting held under Sections 7, 8, 9, 12 and 13 of this Ordinance.



17. The Overseer shall not incur any indebtedness on behalf of the unincorporated town beyond the sum of \$100.00 which amount of indebtedness may be incurred pending the collection of the taxes assessed, but all indebtedness must be settled before the twenty-first day of December in each year.

18. At every meeting for the election of an Overseer, the meeting shall by a majority of the voters present elect an auditor who shall examine all books, accounts, vouchers, etc., and shall make a report thereon, to the Lieutenant-Governor-in-Council for the information of any voter of the unincorporated town who may demand such information from the Lieutenant-Governor-in-Council.

19. An Overseer shall hold office for two years from the date of such publication, unless the position become vacant through death, resignation or moving out of the district, and upon the expiration of his term, or in the event of the position becoming so vacant, the Lieutenant-Governor-in-Council shall issue his writ to such ratepayers, as he may designate, for another election under the provisions of this Ordinance.

20. In unincorporated towns no person shall keep on his premises a greater quantity of coal oil or kerosene than three barrels thereof or five cans of five gallons each thereof, except as hereinafter provided. Beyond these quantities, all coal oil or kerosene shall be kept underground, at least twenty feet distant from any building, in an excavation, which shall be covered with earth to a depth of at least six inches, or iron, or some other metal. The entrance door, if any, and all woodwork connected therewith shall be covered with sheet iron, zinc or tin.

21. No person shall keep on his premises a larger quantity of gunpowder in wooden kegs than twenty-five pounds, or in tins than an aggregate quantity of thirty pounds. Quantities of gunpowder greater than aforesaid shall be stored in a substantial building, which, if composed entirely or in part of wood, shall be covered with iron or other metal, or in an excavation, which shall be covered with earth or otherwise protected with some uninflammiableness substance.

22. No person shall have or erect on his premises a dwelling, stable or other outhouse built in whole or in part of manure, hay or straw, or place on the roof of any building any manure, hay or straw, unless the said dwelling, stable, out-house or building is distant not less than one hundred feet from any other building; provided always that this shall not apply to thatched roofs or to the banking up of any building with manure between the months of October and May in any year.

(a) No person shall have or erect on his premises any stack of hay, grain or straw, unless the said stack is distant not less than two hundred feet from any building.

23. In any unincorporated town no person shall suffer the accumulation upon his premises, or deposit, or permit the deposit upon any lot belonging to him, of anything which may endanger the public health, or deposit upon, on, or into any street, square, lane, by-way, lake, pond, bank, river, stream, sewer or water, any manure, or other refuse, or vegetable or animal matter, or other filth or nuisance.

24. In any unincorporated town every householder and every hotel and restaurant keeper or other person shall dispose of all garbage, for the disposal of which he is responsible, either by burning the same or placing it in a proper covered receptacle for swill and house offal, the contents of which shall, between the 15th day of May and the 1st day of November, be regularly removed at least once a week.

25. No swine shall be kept within the limits of any unincorporated town, except in pens seventy feet distant from any house, with floors kept free from standing water, and regularly cleansed and disinfected; nor shall any swine be permitted to run at large at any time in any unincorporated town.

26. Excavations, where foul water accumulates, shall be filled up, or, when otherwise dangerous, shall be safely covered over or fenced in.

27. It shall be the duty of the Overseer to assess a tax as

hereinafter provided upon all ratepayers and owners or occupants of real and personal property in the unincorporated town area, and to expend the money so collected in improving the roads and for fire protection, and to carry out all the provisions of this Ordinance.

28. Every male person over eighteen years of age, residing within the unincorporated town, shall be assessed one dollar.

29. Every owner or occupant shall be assessed at such rate as has been directed by the meeting, provided for in Sections 7 to 14 inclusive, on the amount of his assessment for school purposes, in the area of the unincorporated town.

30. The expenses connected with the erecting the district into an unincorporated town, and the expenses of advertising and holding the meetings of ratepayers for the election of an Overseer of such district, in which the sum of \$5.00 to be paid to the returning officer appointed by the Lieutenant-Governor-in-Council for directing and holding such election shall be included, and the remuneration of the Overseer, as hereinafter provided, shall be a first charge upon the moneys and fines collected by the Overseer: and the balance shall be applied and expended by the Overseer in the improvement of roads, and to enforce the provisions of this Ordinance.

31. The remuneration of the Overseer shall be \$50 per annum and a sum of 2½ per cent. on all moneys passing through his hands on account of the District.

32. The Overseer shall have all the road and fire improvements done by the fifteenth day of October in each year.

33. The Overseer shall on or before the first day of November in each year render to the Lieutenant-Governor-in-Council an account in writing showing:—

(1) Amount of money collected.



(2) The amount expended and for what purposes, showing balance on hand.

(3) The names of all those who have been fined, stating amount of the fine, and the name of the convicting justice.

(4) A list of taxes unpaid, giving name of person in default.

(5) The notice shall be published in the newspaper in or nearest to the town, or a copy thereof posted up in the Post office.

34. The amount of taxes returned by the Overseer as unpaid may be collected from the defaulters, after such taxes have remained unpaid for not less than two years, by an action at Law in the name of the Overseer.

35. At the expiration of the term of any Overseer, or on the position becoming vacant from death, resignation, or otherwise, the rolls, minute book, district moneys, and other property of such Overseer, held by him in virtue of his position as Overseer, shall be handed over by him or his personal representatives to his successor.

36. Any Overseer, who refuses or neglects to discharge his duties, after having first accepted the office, or who neglects or refuses to render a true and correct account as required by this Ordinance, or who refuses or neglects to pay any balance of public money, which then may be due from him, shall for each and every offence incur a penalty not exceeding \$100, to be recovered together with the balance of the moneys remaining in his hand at the suit of the Lieutenant-Governor-in-Council before any court of competent jurisdiction and upon such conviction shall cease to hold office.

37. Any person liable to perform any duty under the provisions of this Ordinance, who wilfully neglects or refuses to perform the same, shall be guilty of an offence against this Ordinance and be liable on summary conviction before a Justice of the Peace to a penalty not exceed-

ing fifty dollars, with costs of prosecution, and in default of payment to be imprisoned, with or without hard labor, for any time not exceeding three months, and such fine when recovered shall be paid to the Overseer for the use of the District.

38. Ordinance No 2 of 1888 and Ordinance No. 12 of 1889 are hereby repealed.

## FORM A.

(Vide Section 9.)

I, A. B., hereby declare that I am assessed as a ratepayer in  
School District No.            on the last revised assessment roll thereof for  
property situated within the limits of            unincorporated town.

## FORM B.

(Vide Section 10)

## UNINCORPORATED TOWN OF

I, A. B., Returning Officer for the unincorporated town of \_\_\_\_\_ hereby declare on oath that the record of votes annexed, signed by me, is the true record of votes voted upon the \_\_\_\_\_ day of \_\_\_\_\_ 18\_\_\_\_, when \_\_\_\_\_ was duly elected Overseer for the above District.

Sworn before me at  
this  
day of 18

## NO. 4 OF 1893.

AN ORDINANCE TO AMEND ORDINANCE NO. 21  
OF 1892, RESPECTING ELECTIONS TO THE  
NORTH-WEST LEGISLATIVE ASSEMBLY.

[Assented to 16th September, 1893.]

The Lieutenant-Governor, by and with the advice and consent of the Legislative Assembly of the Territories, enacts as follows:—

1. Section 10 is hereby amended by striking out the word “five” where it occurs following the word “least” where it first occurs in the said Section, and substituting therefor the word “one.”

2. Section 24 is hereby amended by inserting after the word “pencils” the word “stamps.”

3. Section 32 is hereby amended by adding after the word “sealed” in the thirteenth line the following words:—

“The Deputy Returning Officer shall then in presence of the candidates, their agents or scrutineers, or, in their absence, any electors present who may claim to act for any of the candidates, after same has been examined by them, break the seal on the packet containing stamp to be used by the Deputy Returning Officer in marking outside of ballot papers.”

4. Section 32 is hereby amended by adding after the word “place” in the second last line the words “or condition of seal on packet containing stamp.”

5. Sub-section (a) of Section 34 is hereby amended by striking out the word “voter” where it first occurs in the



said sub-section and substituting therefor the word "person"; and also by striking out the word "voter" where it occurs the second time in the sub-section and substituting therefor the words "such person desirous of voting."

6. Sub-section (d) of Section 34, is hereby amended by striking out the word "voter" where it first occurs in the said sub-section, and substituting therefor the words, "person desirous of voting"; also by striking out the words "the voter's" where they occur in the said sub-section and substituting therefor the word "his."

7. Sub-section (e) of Section 34 is hereby amended by inserting the words "and the name of the person at whose request he was required to affirm" immediately after the words "refused by him" where they occur in the said sub-section.

8. Sub-section (h) of Section 34 is hereby amended by adding after the word "initials" in the third line, the words "and shall make an impression with stamp provided for that purpose."

9. Sub-section (i) of Section 34 is hereby amended by adding at the end thereof the words "subject, however, to the other provisions of this Section."

10. Sub-section (q) of Section 34 is hereby amended by adding the following sub-section:—"The Deputy Returning Officer shall deal with the ballot of such person as provided in sub-sections (m) and (n) of this Section."

11. Sub-section (r) of Section 34 is hereby amended by adding at the end of the sub-section the words "or scrutineers, if present."

12. Sub-section (c) of Section 42 is hereby amended by striking out the letter "(g)" where it occurs therein and substituting therefor the letter "(q)."

13. Section 44 is hereby amended by striking out the word "Ordinance" where it occurs the second time in the said Section and substituting therefor the word "act."

14. Sub-section (a) of Section 44 is hereby amended by adding the following words to the end of the sub-section:—  
"which costs shall be according to a scale to be fixed by the Lieutenant-Governor in-Council."

15. Section 48 is hereby amended by inserting the words, "or by any person whose vote has been disallowed," immediately after the word "agent," where it occurs in the said Section.

16. Sub-section (a) of Section 64 is hereby amended by adding thereto, "Return to the Lieutenant-Governor the stamps provided for the purpose of marking ballot papers, (the seal on the packets containing stamps which were not required to be used to be unbroken.)"

17. Section 70 is hereby amended by inserting the words, "such of" immediately after the word "of" where it first occurs in the said Section; and also inserting the words "as may be present" after the word "writing" where it occurs in the said Section.

18. Section 76 is hereby amended by striking out the words "candidate under" where they occur therein and inserting the words, "person with a view of inducing him to vote or refrain from voting or to contravene any of the provisions of."

19. Section 4 of Schedule Part I is hereby amended by striking out the words "black and red; if three, blue shall be added; if four, yellow shall be added; if five, green shall be added; if six, pink shall be added;" and substituting therefor the words "blue and red, if three black shall be added, if four green shall be added, if five pink shall be added, if six yellow shall be added."

20. Schedule Part I is hereby amended by adding the following clause:—

## STAMPS.

"The stamp used under provision of Section 24 and sub-section (h) of Section 34 shall be made of rubber or other similar material, shall be of a design differing in form for each general election: stamps to be forwarded each Returning Officer, each in a separate packet securely fastened so that it will be impossible to discover design of stamp without breaking the seal on the packet, and each packet shall have an impression in sealing wax of the official seal of the Lieutenant-Governor."

21. Sub-section (a) of Section 21 is hereby amended by adding thereto the following words, "and the colors shall be assigned to the candidates in the order of nomination, the order being the same as specified in amendment to Section 4 of Schedule Part I.

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## NO. 5 OF 1893.

AN ORDINANCE TO MAKE REGULATIONS WITH  
RESPECT TO COAL MINES.

[Assented to 16th September, 1893.]

The Lieutenant-Governor, by and with the advice and consent of the Legislative Assembly of the Territories, enacts as follows:—

## SHORT TITLE.

1. This Ordinance may be cited as the “Coal Mines Regulation Ordinance.”

## INTERPRETATION.

2. In this Ordinance unless the context otherwise requires:—

The term “mine” includes every shaft in the course of being sunk, and every level and inclined plane in the course of being driven for commencing or opening any coal mine, and all the shafts, levels, planes, works, machinery, tramways, and sidings, both below ground and above ground, in and adjacent to a coal mine and any such shaft, level and inclined plane, and belonging to the coal mine.

The term “shaft” includes pit.

The term “plan” includes a map and section, and a correct copy or tracing of any original plan as so defined.

The term “owner” when used in relation to any mine, means any person or body corporate who is the immediate proprietor, or lessee, or occupier of any mine, or of any part thereof, and does not include a person or body incorporate who merely receives a royalty, rent, or fine from a mine, or is merely the proprietor of a mine subject to any lease, grant, or license for the working thereof, or is

merely the owner of the soil, and not interested in the minerals of the mine, but any contractor for the working of any mine or any part thereof shall be subject to this Ordinance in like manner as if he were an owner, but so as not to exempt the owner from any liability.

The term "agent," when used in relation to any mine, means any person, having, on behalf of the owner, care or direction of any mine, or of any part thereof, and superior to a manager appointed in pursuance to this Ordinance.

#### REGISTER OF EMPLOYEES.

3. The owner, agent, or manager of every mine to which this Ordinance applies shall keep in the office at the mine a register, and shall cause to be entered in such register the name, age, residence, and date of first employment of all persons employed in connection with the mine, and shall produce such register to any inspector under this Ordinance at the mine at all reasonable times when required by him, and allow him to inspect and copy the same.

4. Where there is a shaft or inclined plane or level in any mine to which this Ordinance applies, whether for the purpose of an entrance to such mine or of a communication from one part to another part of such mine, and persons are taken up or down or along such shaft, plane, or level by means of an engine, windlass or gin, driven or worked by steam or mechanical power, or by an animal, or by manual labor, a person shall not be allowed to have charge of such engine, windlass or gin, or of any part of the machinery, ropes, chains or tackle connected therewith, unless he is a male of at least eighteen years of age.

5. If any person contravenes or fails to comply with or permits any person to contravene or fail to comply with any provision of this Ordinance with respect to the register of persons employed in such mine or to the employment of persons about any engine, windlass or gin, he shall be guilty of an offence against this Ordinance, and in case of any such contravention or non-compliance by any person whom-

soever, the owner, agent and manager shall each be guilty of an offence against this Ordinance.

6. If it appear that a person employed about an engine, windlass or gin, was employed on the representation of his parent or guardian that he was of that age at which his employment would not be in contravention of this Ordinance, and under the belief in good faith that he was of that age, the owner, agent or manager of the mine and employer shall be exempt from any penalty, and the parent or guardian shall for such misrepresentation be deemed guilty of an offence against this Ordinance.

#### SINGLE SHAFTS.

7. Notwithstanding any contract or agreement to the contrary, the owner, agent or manager of a mine to which this Ordinance applies shall not employ any person in such mine, or permit any person to be in such mine for the purpose of employment therein, unless there are in communication with every seam of such mine for the time being at work at least two shafts or outlets, separated by natural strata of not less than ten feet in breadth, by which shafts or outlets distinct means of ingress and egress are available to the persons employed in such seam, whether such two shafts or outlets belong to the same mine, or one or more of them belong to another mine, and unless there is a communication of not less than four feet wide and three feet high between such two shafts or outlets, and unless there is at each of such two shafts or outlets or upon the works belonging to the mine and either in actual use or available for use within a reasonable time proper apparatus for raising and lowering persons at each such shaft or outlet; Provided that such separation shall not be deemed incomplete by reason only that openings through the strata between the two shafts or outlets have been made for temporary purposes of ventilation, drainage, or otherwise; or in the case of mines where inflammable gas has not been found within the preceding twelve months for the same purposes although not temporary.

8. Every owner, agent or manager of a mine who acts in



contravention of or fails to comply with the last preceding Section shall be guilty of an offence against this Ordinance.

9. The Supreme Court, whether any other proceedings have or have not been taken, may upon the application of any person authorized thereto by the Lieutenant-Governor-in-Council, prohibit by injunction the working of any mine in which any person is employed or is permitted to be for the purpose of employment, in contravention of the last but one preceding Section, and may award such costs in the matter of the injunction as the Court thinks just; but this provision shall be without prejudice to any other remedy permitted by law for enforcing the provisions of this Ordinance. Written notice of the intention to apply for such injunction in respect of any mine shall be given to the owner, agent or manager of such mine not less than ten days before the application is made.

10. The provisions of this Ordinance with respect to shafts or outlets shall not apply in the following cases, that is to say:—

(1) In the case either of opening a new mine for the purpose of searching for or proving minerals, or of any working for the purpose of making a communication between two or more shafts, so long as not more than twenty persons are employed below ground at any one time in the whole of the different seams in connection with each shaft or outlet in such new mine or such working;

(2) In the case of any proved mine so long as it is exempted in writing by the Lieutenant-Governor-in-Council on the ground either—

(a) If the mine is not a mine with inflammable gas, that sufficient provision has been made against danger from other causes than explosions of gas by using stone, brick, or iron in the place of wood for the lining of the shaft and the construction of the mid-wall;  
or

- (b) that the workings in any seam of a mine have reached the boundary of the property or other extremity of the mineral field of which such seam is a part, and that it is expedient to work away the pillars already formed in course of the ordinary working, notwithstanding that one of the shafts or outlets may be cut off by so working away the pillars of such seam :

and so long as there are not employed below ground at any one time in the whole of the different seams in connection with the shaft or outlet in any such mine, more than twenty persons, or (if the mine is not a mine with inflammable gas) then such larger number of persons as may for the time being be allowed by the Lieutenant-Governor-in-Council.

#### DIVISION OF MINE.

11. Where two or more parts of a mine are worked separately, each such part shall, for all the purposes of this Ordinance, be deemed to be a separate mine.

#### CONTROL.

12. Every mine to which this Ordinance applies shall be under the control and daily supervision of a manager having a thorough practical knowledge of the nature of inflammable, explosive or other dangerous gases and of the most approved means and appliances for controlling them. And no person shall act as manager in a mine under this Ordinance who has not produced to the Lieutenant-Governor-in-Council satisfactory evidence of his practical knowledge, sobriety, experience, ability and general good conduct and been accorded a certificate therefrom.

#### RETURNS, NOTICES, ETC.

13. On or before the first day of February in every year the owner, agent, or manager of every mine to which this Ordinance applies shall send to the Lieutenant-Governor a correct return specifying, with respect to the year ending

on the preceding thirty-first day of December, the quantity of coal wrought in such mine, and the number of persons ordinarily employed in or about such mine below ground and above ground, distinguishing the persons employed below ground and above ground, and the different classes and ages of the persons so employed.

14. The return shall be in such form as may be from time to time prescribed by the Lieutenant-Governor-in-Council.

15. The aggregate results of such returns may be published, but the individual return shall not be published without the consent of the person making the same, or of the owner of the mine to which they relate, and no person shall be entitled, without such consent, to see the same.

16. Every owner, agent or manager of a mine, who fails to comply with the last three preceding Sections or makes any return which is to his knowledge false in any particular, shall be guilty of an offence against this Ordinance.

17. Where in or about any mine to which this Ordinance applies, whether above or below ground either—

(1.) loss of life or any personal injury to any person employed in or about the mine occurs by reason of any explosion of gas, powder, or of any steam boiler; or

(2.) loss of life or any serious personal injury to any person employed in or about the mine occurs by reason of any accident whatever, the owner, agent or manager of the mine shall within forty-eight hours next after the explosion or accident send notice in writing of the explosion or accident and of the loss of life and personal injury occasioned thereby to the Lieutenant-Governor and shall specify in such notice the character of the explosion or accident, and the number of persons killed and injured respectively.

18. Where any personal injury, of which notice is required to be sent under the last preceding Section, results in the death of the person injured, notice in writing of the



death shall be sent to the Lieutenant-Governor within forty-eight hours after such death comes to the knowledge of the owner, agent or manager.

19. Every owner, agent or manager, who fails to act in compliance with the last two preceding Sections, shall be guilty of an offence against this Ordinance.

20. In any of the following cases, namely :

- (1) Where any working is commenced for the purpose of opening a new shaft for any mine to which this Ordinance applies ;
- (2) Where a shaft of any mine to which this Ordinance applies is abandoned or the working thereof discontinued ;
- (3) Where the working of a shaft of any mine to which this Ordinance applies is recommenced after any abandonment or discontinuance for a period exceeding two months ; or
- (4) Where any change occurs in the name of, or in the name of the owner, agent or manager of, any mine to which this Ordinance applies, or in the officers of any incorporated company which is the owner of a mine to which this Ordinance applies,

the owner, agent or manager of such mine shall give notice thereof to the Lieutenant-Governor within two months after such commencement, abandonment, discontinuance, recommencement or change; and if such notice is not given the owner, agent or manager, shall be guilty of an offence against this Ordinance.

21. Where any mine to which this Ordinance applies is abandoned or the working thereof discontinued, at whatever time such abandonment or discontinuance occurs, the owner thereof shall cause the top of the shaft and any side entrance from the surface to be and to be kept securely fenced for the prevention of accidents :—

Provided that—

(1) Subject to any contract to the contrary, the owner of the mine shall, as between him and any other person interested in the minerals of the mine, be liable to carry into effect this Section, and to pay any costs incurred by any other person interested in the minerals of the mine in carrying this Section into effect :

(2.) Nothing in this Section shall exempt any person from any liability under any other Ordinance or otherwise.

If any person fail to act in conformity with this Section, he shall be guilty of an offence against this Ordinance.

22. Any shaft or side entrance, which is not fenced as required by the last preceding Section, if within fifty yards of any highway, road, footpath or place of public resort, or is in open or unenclosed land, shall be deemed to be a nuisance.

(1) Whenever slack deposited in the neighbourhood of the pits mouth being unfenced and burning and thereby in a dangerous condition, the Lieutenant-Governor-in-Council may instruct the owners of such mine to enclose such slack with a fence and take any other necessary precautions as they may consider necessary :

23. Where any mine to which this Ordinance applies is abandoned the owner of such mine at the time of such abandonment shall, within three months after such abandonment, send to the Lieutenant-Governor an accurate plan on a scale of not less than one hundred feet to one inch, or on such other scale as the plan used in the mine at the time of such abandonment is constructed on, shewing the boundaries of the workings of such mine up to the time of the abandonment, with a view of its being preserved, but no person, except an inspector under this Ordinance, shall be entitled, without the consent of the owner of the mine, to see such plan when so sent until after the lapse of ten years from the time of such abandonment. Every person

who fails to comply with this Section shall be guilty of an offence against this Ordinance.

24. All notices under this Ordinance shall be in writing or print, or partly in writing and partly in print, and all notices and documents required by this Ordinance to be served or sent by or to an Inspector may be either delivered personally or served or sent by post by prepaid letter, and if served or sent by post shall be deemed to have been served and received respectively at the time when the letter containing the same would be delivered in the ordinary course of post, and in proving such service or sending it shall be sufficient to prove that the letter containing the notice was properly addressed and put into the post.

#### INSPECTION.

25. The Lieutenant-Governor may from time to time appoint any fit persons to be Inspectors of Mines to which this Ordinance applies, and assign them their duties, and may award them such remuneration as the Lieutenant-Governor-in-Council may approve, and may remove such Inspectors.

26. An Inspector under this Ordinance shall have power to do all or any of the following things, namely :—

- (1) To make such examination and inquiry as may be necessary to ascertain whether the provisions of this Ordinance relating to matters above ground or below ground are complied with in the case of any mine to which this Ordinance applies ;
- (2) To enter, inspect and examine any mine to which this Ordinance applies, and every part thereof, at all reasonable times by day and night, but so as not to impede or obstruct the working of the said mine ;
- (3) To examine into and make enquiry respecting the state and condition of any mine to which this Ordinance applies, or any part thereof, and



the ventilation of the mine, and the sufficiency of the special rules for the time being in force in the mine, and all matters and things connected with or relating to the safety of the persons employed in or about the mine, or any mine contiguous thereto;

- (4) To exercise such other power as may be necessary for carrying this Ordinance into effect;
- (5) To examine and inquire into the competency of all managers in charge of mines under this Ordinance and report upon the same to the Lieutenant-Governor-in-Council.

27. Every person who wilfully obstructs any Inspector in the execution of his duty under this Ordinance and every owner, agent and manager of a mine who refuses or neglects to furnish to the Inspector the means necessary for making any entry, inspection, examination or inquiry under this Ordinance in relation to such mine or manager thereof, shall be guilty of an offence against this Ordinance.

28. The owner, agent or manager of every mine to which this Ordinance applies shall keep in the office at the mine an accurate plan of the workings of such mine, and showing the workings up to at least six months previously, and shall produce to an Inspector under this Ordinance at the mine such plan, and shall, if requested by the Inspector, mark on such plan the progress of the workings of the mine up to the time of such production, and shall allow the Inspector to examine the same; but the Inspector is not hereby authorized to make a copy of any part of such plan.

29. If the owner, agent or manager of any mine to which this Ordinance applies fails to keep such plan as is prescribed by the last preceding Section, or wilfully refuses to produce or allow to be examined such plan, or wilfully withholds any portion of any plan, or conceals any part of the workings of his mine, or produces an imperfect or inaccurate plan unless he shows that he was ignorant of

such concealment, imperfection or inaccuracy, he shall be guilty of an offence against this Ordinance; and further the Inspector may, by notice in writing, (whether penalty for such offence has or has not been inflicted), require the owner, agent or manager to cause an accurate plan, such as is prescribed by the said Section, to be made within a reasonable time, at the expense of the owner of the mine, on a scale of not less than one hundred feet to one inch, or on such other scale as the plan then used in the mine is constructed on. If the owner, agent or manager fails within twenty days, or such further time as may be shown to be necessary, after the requisition of the Inspector to make or cause to be made such plan, he shall be guilty of an offence against this Ordinance.

#### RULES.

30. The following general rules shall be observed, so far as is reasonably practicable, in every mine to which this Ordinance applies:—

Rule 1. An adequate amount of ventilation shall be constantly produced in every mine, to dilute and render harmless noxious gases, to such an extent that the working places of the shafts, levels, stables and working of such mine, and the travelling roads to and from such working places, shall be in a fit state for working and passing therein.

Rule 2. An adequate amount of ventilation shall mean not less than one hundred cubic feet of pure air per minute for each man, boy, horse and mule employed in a mine, and as much more as the Inspector may direct, which shall sweep the face of each working place. Every mine shall be divided into districts or splits of not more than seventy men in each district, and each district shall be supplied with a separate current of fresh air. All intake air shall travel free from all stagnant water, stables and old workings and every place shall be bratticed up within four yards of the face. On all main roads where a door is required, the Inspector of Mines may order that two doors shall be placed so that while boxes are being taken through the one, the other shall remain closed and no air shall be lost.

Rule 3. In every mine in which inflammable gas has been found within the preceding twelve months, then once in every twenty-four hours if one shift of workmen is employed, and once in every twelve hours if two shifts are employed during any twenty-four hours, a competent person or competent persons, who shall be appointed for the purpose, shall, before the time for commencing work in any part of the mine, inspect with a safety lamp that part of the mine, and the roadways leading thereto, and shall make a true report of the condition thereof, so far as ventilation is concerned, and a workman shall not go to work in such part until the same and the roadways leading thereto are stated to be safe. Every such report shall be recorded without delay in a book, which shall be kept at the mine for the purpose, and shall be signed by the person making the same.

Rule 4. In every mine in which inflammable gas has not been found within the preceding twelve months, then once in every twenty-four hours a competent person or competent persons, who shall be appointed for the purpose, shall, so far as is reasonably practicable, immediately before the time for commencing work in any part of the mine, inspect that part of the mine and the roadways leading thereto, and shall make a true report of the condition thereof so far as ventilation is concerned, and a workman shall not go to work in such part until the same and the roadways leading thereto are stated to be safe. Every report shall be recorded without delay in a book, which shall be kept at the mine for the purpose, and shall be signed by the person making the same.

Rule 5. All entrances to any place not in actual course of working and extension shall be properly fenced across the whole width of such entrance, so as to prevent persons inadvertently entering the same.

Rule 6. A station or stations shall be appointed at the entrance to a mine, or to different parts of the mine, as the case may require, and a workman shall not pass beyond any such station until the mine or part of the mine beyond the same has been inspected and stated to be safe.



Rule 7. If at any time it is found by the person for the time being in charge of the mine or any part thereof that by reason of noxious gases prevailing in such mine or such part thereof, or of any cause whatever, the mine or the said part is dangerous, every workman shall be withdrawn from the mine or such part thereof as is so found dangerous, and a competent person, who shall be appointed for the purpose, shall inspect the mine or such part thereof as is so found dangerous, and if the danger arises from inflammable gas shall inspect the same with a locked safety lamp, and in every case shall make a true report of the condition of such mine or part thereof, and a workman shall not, except in so far as is necessary for inquiring into the cause of danger or for the removal thereof, or for exploration, be re-admitted into the mine, or such part thereof as was so found dangerous, until the same is stated by such report not to be dangerous. Every such report shall be recorded in a book, which shall be kept at the mine for the purpose, and shall be signed by the person making the same.

Rule 8. In every working approaching any place where there is likely to be an accumulation of explosive gas, no lamp or light other than a locked safety lamp shall be allowed or used, and whenever safety lamps are required by this Ordinance or by the special rules made in pursuance of this Ordinance, to be used, a competent person, who shall be appointed for the purpose, shall examine every safety lamp immediately before it is taken into the workings for use, and ascertain it to be secure and securely locked; and in any part of a mine in which safety lamps are so required to be used, they shall not be used until they have been so examined and found secure and securely locked, and shall not without due authority be unlocked, and in the said part of a mine a person shall not, unless he is appointed for the purpose, have in his possession any key or contrivance for opening the lock of any such safety lamp, or any lucifer match or apparatus of any kind for striking a light. Where it is necessary to work coal in any part of a ventilating district with safety lamps, it shall not be allowable to work with a naked light in another part of the same ventilating district, situated between the place where such safety lamps are being used and the return airway.

Rule 9. Gunpowder or other explosive or inflammable substance shall only be used in the mine underground as follows ;—

- (a) It shall not be stored in the mine ;
- (b) It shall not be taken into the mine, except in a case or canister containing not more than four pounds ;
- (c) A workman shall not have in use at one time in any one place more than one of such cases or canisters ;
- (d) In charging holes for blasting, an iron or steel pricker shall not be used, and a person shall not have in his possession in the mine underground any iron or steel pricker, and an iron or steel tamping rod or stemmer shall not be used for ramming either the wadding or the first part of the tamping or stemming on the powder ;
- (e) No explosive shall be forcibly pressed into a hole of insufficient size, and when a hole has been charged the explosive shall not be unrammed, and no hole shall be bored for a charge at a distance of less than two feet from any hole where the charge has missed fire, but where a space of two feet from the first hole cannot be obtained, the explosive may be unrammed under the sanction and supervision of the shot examiner.
- (f) It shall not be taken into or be in the possession of any person in any mine, except in cartridges, and shall not be used, except in accordance with the following regulations, during three months after any inflammable gas has been found in any such mine, namely :—
  - (1) A competent person, who shall be appointed for the purpose, shall, immediately before firing the shot, examine the place where it is to be used, and all places contiguous thereto within a radius of twenty-five yards, and shall not allow the shot to be fired unless he finds it safe to do so, and a shot shall not be fired except by or under the direction

of a competent person who shall be appointed for the purpose ;

- (1a) If the place where the shot is to be fired is dry and dusty, then the shot shall not be fired unless one of the following conditions is observed, that is to say :—
- (1b) Unless the place of firing and all contiguous and accessible places within a radius of twenty yards are at the time of firing in a wet state from a thorough watering, or other treatment equivalent to watering, in all parts where dust is lodged, whether roof, floor or sides ; or
- (1c) In the case of places in which watering would injure the roof or floor, unless the explosive is so used with water, or other contrivance as to prevent it from inflaming gas or dust, or is of such a nature that it cannot inflame gas or dust ;
- (1d) All hauling or other roads that are dry and dusty shall be watered sufficiently often to allay the dust.
- (2) If the said inflammable gas issued so freely that it shewed a blue cap on the flame of the safety lamp it shall only be used—
- (a) Either in those cases of stone drifts, stone work, and sinking of shafts, in which the ventilation is so managed that the return air from the place where the powder is used passes into the main return air course without passing any place in actual course of working ; or
- (b) When the persons ordinarily employed in the mine are out of the mine or out of the part of the mine where it is used ;
- (g) Where a mine is divided into separate panels in such manner that each panel has an independent intake and return airway from the main aircourse and

the main return aircourse, the provisions of this rule with respect to gunpowder or other explosive inflammable substance shall apply to each such panel in like manner as if it were a separate mine.

Rule 10. Where a place is likely to contain a dangerous accumulation of water the working approaching such place shall not exceed eight feet in width and there shall be constantly kept at a sufficient distance, not being less than five yards in advance, at least one bore-hole near the centre of the working and sufficient flank bore-holes on each side.

Rule 11. Every underground plane on which persons travel, which is self-acting or worked by an engine, windlass or gin, shall be provided, if exceeding thirty yards in length, with some proper means of signalling between the stopping places and the ends of the plane, and shall be provided in every case, at intervals of not more than twenty yards, with sufficient man-holes for places of refuge.

Rule 12. Every road on which person travel underground, where the load is drawn by a horse or other animal, shall be provided at intervals of not more than fifty yards, with sufficient man-holes, or with a space for a place of refuge, which space shall be of sufficient length, and of at least three feet in width, between the waggons running on the tram road and the side of such road.

Rule 13. Every man-hole and space for a place of refuge shall be constantly kept clear, and no person shall place anything in a man-hole or such space so as to prevent access thereto.

Rule 14. The top of every shaft which for the time being is out of use, or used only as an air-shaft, shall be securely fenced.

Rule 15. The top and all entrances between the top and bottom of every working or pumping shaft shall be properly fenced, but this shall not be taken to forbid the temporary removal of the fence for the purposes of repairs or other operations, if proper precautions are used.



Rule 16. Where the natural strata are not safe, every working or pumping shaft shall be securely cased, lined or otherwise made secure.

Rule 17. The roof and sides of every travelling road and working place shall be made secure, and a person shall not, unless appointed for the purpose of exploring or repairing, travel or work in any such travelling road or working place which is not so made secure.

Rule 18. Where there is a downcast and furnace shaft, and both such shafts are provided with apparatus in use for raising and lowering persons, every person employed in the mine shall, upon giving reasonable notice, have the option of using the downcast shaft.

Rule 19. In any mine which is usually entered by means of machinery, a competent person of such age as prescribed by this Ordinance shall be appointed for the purpose of working the machinery which is employed in lowering and raising persons therein, and shall attend for the said purpose during the whole time that any person is below ground in the mine.

Rule 20. Every working shaft used for the purpose of drawing minerals or for the lowering or raising of persons shall, if exceeding fifty yards in depth, and not exempted in writing by the Inspector be provided with guides and some proper means of communicating distinct and definite signals from the bottom of the shaft and from every entrance from the time being in work between the surface and the bottom of the shaft to the surface, and from the surface to the bottom of the shaft, and to every entrance for the time being in work between the surface and the bottom of the shaft.

Rule 21. A sufficient cover overhead shall be used when lowering or raising persons in every working shaft, except where it is worked by a windlass, or where the person is employed about the pump or some work of repair in the shaft, or where a written exemption is given by the Inspector of the district.

Rule 22. A single linked chain shall not be used for lowering or raising persons in any working shaft or plane, except for the short coupling chain attached to the cage or load.

Rule 23. There shall be on the drum of every machine used for the lowering or raising persons such flanges or horns, and also, if the drum is conical, such other appliances, as may be sufficient to prevent the rope from slipping.

Rule 24. There shall be attached to every machine worked by steam, water or mechanical power, and used for lowering and raising persons, an adequate break, and also a proper indicator, in addition to any mark on the rope, which shows to the person who works the machine the position of the cage or load in the shaft.

Rule 25. Every fly-wheel and all exposed and dangerous parts of the machinery used in or about the mine shall be and be kept securely fenced.

Rule 26. Every steam boiler shall be provided with a proper steam guage and water guage to show respectively the pressure of steam and the height of water in the boiler, and with a proper safety valve.

Rule 27. After dangerous gas has been found in any mine, a barometer and a thermometer shall be placed above ground in a conspicuous position near the entrance to the mine.

Rule 28. No person shall wilfully damage, or without proper authority remove or render useless any fence, fencing, casing, lining, guide, means of signalling, signal, cover, change, flange, horn, brake, indicator, steam guage, water guage, safety valve, or other appliances or thing provided in any mine in compliance with this Ordinance.

Rule 29. Every person shall observe such directions with respect to working as may be given to him with a view to comply with this Ordinance or the special rules.

Rule 30. A competent person or competent persons, who

shall be appointed for the purpose, shall, once at least in every twenty-four hours, examine the state of the external parts of the machinery, and the state of the head gear, working places, levels, planes, ropes, chains and other works of the mine which are in actual use, and once at least in every week shall examine the state of the shafts by which persons ascend or descend, and the guides or conductors therein, and shall make a true report of the result of such examination, and such report shall be recorded in a book to be kept at the mine for the purpose and shall be signed by the person who made the same.

Rule 31. The persons employed in a mine may from time to time appoint one or two of their number to inspect the mine at their own cost, and the persons so appointed shall be allowed once or oftener in every shift, day, week, or month, accompanied, if the owner, agent or manager of the mine thinks fit, by himself or one or more officers of the mine, to go to every part of the mine, and to inspect the shafts, levels, planes, working places, return air-ways, ventilating apparatus, old working, and machinery, and shall be afforded by the owner, agent and manager, and all persons in the mine, every facility for the purpose of such inspection, and shall make a true report of the result of such inspection, and such report shall be recorded in a book to be kept at the mine for the purpose and shall be signed by the persons who made the same. And if the report state the existence or apprehended existence of any danger, the owner, agent or manager shall forthwith cause a true copy of the report to be sent to the Lieutenant-Governor.

Rule 32. The books mentioned in this Section, or a copy thereof, shall be kept at the office of the mine, and any Inspector under this Ordinance and any person employed in the mine may, at all reasonable times, inspect and take copies of and extracts from any such books.

Rule 33. Every cage used in any mine shall be stationary and shall rest upon chains or catches before any person is allowed to enter upon or to leave the same. No person shall enter or leave a cage without the consent of the banksman or onsetter.

Rule 34. No person unable to speak English shall be appointed to or shall occupy any position of trust or responsibility in or about a mine subject to this Ordinance, whereby through his ignorance, carelessness, or negligence, he might endanger the life or limb of any person employed in or about a mine, viz.: As banksman, onsetter, signalman, brakesman, pointsman, furnaceman, engineer, or be employed at the windlass of a sinking pit.

Rule 35. Every person who contravenes or who does not comply with any of the general rules of this Section shall be guilty of an offence against this Ordinance; and in the event of any contravention of or non-compliance with any of the said general rules in the case of any mine to which this Ordinance applies, by any person whomsoever, the owner, agent and manager shall each be guilty of an offence against this Ordinance, unless he proves that he had taken all reasonable means, by publishing and to the best of his power enforcing the said rules as regulations for the working of the mine, to prevent such contravention or non-compliance.

31. There shall be established in every mine to which this Ordinance applies such rules (referred to in this Ordinance as special rules) for the conduct or guidance of the persons acting in the management of such mine or employed in or about the same as, under the particular state and circumstances of such mine, may appear best calculated to prevent dangerous accidents, and to provide for the safety and proper discipline of the persons employed in or about the mine, and such special rules shall be established by order of the Lieutenant-Governor-in-Council and shall be observed in and about every such mine.

#### PENALTIES.

32. Every person employed in or about a mine, other than an owner, agent, or manager, who is guilty of any act or omission which in the case of an owner, agent or manager would be an offence against this Ordinance, shall be deemed to be guilty of an offence against this Ordinance.



33. Every person who is guilty of an offence against this Ordinance shall be liable to a penalty not exceeding, if he is an owner, agent or manager, one hundred dollars and if he is any other person, ten dollars, for each offence; and if the Inspector has given written notice of any such offence then in case of an owner, agent or manager to a further penalty not exceeding one hundred dollars, and not less than ten dollars for every day after such notice that such offence continues to be committed, and in case of other persons, to a further penalty not exceeding five dollars for every day after such notice that such offence continues to be committed.

34. When a person, who is an owner agent, or manager of or a person employed in or about a mine, is guilty of an offence against this Ordinance which in the opinion of the Court that tries the case is one which was reasonably calculated to endanger the safety of the persons employed in or about the mine, or to cause serious personal injury to any of such persons, or to cause a dangerous accident, and was committed wilfully by the personal act, personal default or personal negligence of the person accused, such person shall be liable, if the Court is of opinion that a pecuniary penalty will not meet the circumstances of the case, to imprisonment, with or without hard labor, for a period not exceeding three months.

35. All offences under this Ordinance and all penalties under this Ordinance, and all money and costs by this Ordinance directed to be recovered as penalties, may be prosecuted and recovered in a summary manner before a Justice of the Peace.

36. The owner, occupier or manager of every mine shall on the first day of January in every year, and at any other time when required by the Lieutenant-Governor-in-Council, send to the Lieutenant-Governor a return of facts relating to his mine in the form given in the Schedule hereto.

37. The provisions of this Ordinance shall take effect on

SCHEDULE.

"COAL MINES REGULATION ORDINANCE."

ANNUAL RETURN FROM OWNER OR AGENT.

Name of Colliery ..... Name of Pit ..... Name of Seam .....  
 Year ending the ..... day of ..... 18 ..

| Average number of persons employed daily. | Mode of ventilation. | Furnace or Fan with description. | Diameter and depth of down-cast and upcast Shafts. |         |                   |                | Number of splits and quantity.    | Average length of airways. | Sectional area of airways. | Average total quantity of fresh air in cubic feet per minute. |
|-------------------------------------------|----------------------|----------------------------------|----------------------------------------------------|---------|-------------------|----------------|-----------------------------------|----------------------------|----------------------------|---------------------------------------------------------------|
|                                           |                      |                                  | Downcast.                                          | Upcast. | Diameter in feet. | Depth in feet. |                                   |                            |                            |                                                               |
| Above Ground.                             |                      |                                  | Diameter in feet.                                  |         |                   |                | Splits.                           |                            |                            |                                                               |
| Under Ground.                             |                      |                                  | Depth in feet.                                     |         |                   |                | Quantity in cubic ft. per minute. |                            |                            |                                                               |

## NO. 6 OF 1893.

AN ORDINANCE TO AMEND AND CONSOLIDATE  
AS AMENDED, THE JUDICATURE ORDINANCE  
AND AMENDMENTS THERETO.

[Assented to 16th September, 1893.]

The Lieutenant-Governor, by and with the advice and consent of the Legislative Assembly of the Territories, enacts as follows :

## SHORT TITLE.

1. This Ordinance shall come into force on the first day of January, 1894, and may be cited as "The Judicature Ordinance."

## INTERPRETATION OF TERMS.

2. In the construction of this Ordinance, unless there is anything in the subject or context repugnant thereto, the several words hereinafter mentioned or referred to shall have or include the meanings following :

(1) "Cause" includes any action, suit, or other original proceeding between a plaintiff and a defendant.

(2) "Action" includes suit and means a civil proceeding commenced by writ, or in such other manner as may be prescribed by this Ordinance ;

(3) "Matter" includes every proceeding in the Court not in a cause ;

(4) "Originating Summons" means a summons by which proceedings are commenced without writ ;

(5) "Plaintiff," "Petitioner," "Defendant," "Party," "Person," include bodies politic or corporate holding the relation of plaintiff, defendant or party ;

(6) "Receiver" includes consignee or manager appointed by or under an order of the Court;

(7) "Plaintiff" includes every person asking any relief (otherwise than by way of counterclaim as a defendant) against any other person by any form of proceeding, whether the same be taken by action, suit, petition, motion, summons or otherwise;

(8.) "Petitioner" includes every person making any application to the Court, either by petition, motion, or summons, otherwise than as against any defendant;

(9) "Defendant" includes every person served with any writ of summons or process, or served with notice of, or entitled to attend any proceedings;

(10) "Party" includes every person served with notice of or attending any proceeding, although not named on the record.

(11) "Person" includes a body corporate or politic.

#### CIVIL JUSTICE.

(12) "Sheriff" includes deputy-sheriff, duly-appointed bailiffs, coroner and other person discharging the duties of Sheriff in the particular case, or for the time being;

(13) "Pleading" includes any petition or summons, and shall also include the statement in writing of the claim or demand of any plaintiff, and of the defence of any defendant thereto, and of the reply of the plaintiff to any counterclaim of a defendant;

(14) "Judgment" includes decree;

(15) "Order" includes rule;

(16) "Affidavit" includes affirmation or statutory declaration.

#### JURISDICTION.

3. The jurisdiction of the Supreme Court of the North-



West Territories shall be exercised, so far as regards procedure and practice, in the manner provided by this Ordinance, and, where no special provision is contained in this Ordinance, it shall be exercised as nearly as may be as in the High Court of Justice in England.

4. Suits shall be entered, and, unless otherwise ordered, tried in the Court holden in the judicial district where the cause of action arose, or in which the defendant, or one of several defendants, resides or carries on business at the time the action is brought.

5. A Judge sitting in Chambers, if he shall announce that he is sitting in Court, shall have, possess, exercise and enjoy all the powers and authorities, rights, privileges, immunities and incidents of the said Court, and any judgment given or decision or determination, or rule, order or decree made by him while sitting as aforesaid, in respect of any matter lawfully brought before him, shall be subject to the provisions in this Ordinance relating to appeal to the Court in Banc. (R. S. M. p. 436.)

6. In every case in which the Court has authority to order the execution of a deed of conveyance, transfer or assignment of any property, real or personal, the Court may by order vest such real or personal estate in such person or persons, and in such manner, and for such estates, as would be done by any such deed, conveyance, assignment or transfer, if executed: and thereupon the order shall have the same effect as if the legal or other estate or interest in the property had been actually conveyed, by deed or otherwise, for the same estate or interest, to the person in whom the same is so ordered to be vested, or in the case of a *chose in action*, as if such *chose in action*, had been actually assigned to such last mentioned. (R. S. O., p. 453.)

7. The Supreme Court, presided over by a single Judge, for the transaction of the business of the Court, may sit and act at any time and place in each Judicial district, as the Judge usually exercising the jurisdiction of the Court within such district appoints. (R. S. M., p. 436.)

8. Every order made by a Judge in Chambers may be

varied, set aside, or discharged by the Judge sitting in Court, as aforesaid, and no appeal shall lie from any such order, to vary, set aside or discharge which no such motion has been made, unless by special leave of the Judge by whom such order was made, or of the Court in banc.

## RULES OF LAW.

9. In every civil cause or matter commenced in the Supreme Court, law and equity shall be administered by such Court according to the following rules: (O., 52.)

(1) If any plaintiff or petitioner claims to be entitled to any equitable estate or right, or to relief upon any equitable ground, against any deed, instrument or contract, or against any right, title or claim whatsoever, asserted by any defendant or respondent in such cause or matter, or to any relief founded upon a legal right, the Court shall give to such plaintiff or petitioner such relief as would be given by the High Court of Justice in England in a suit or proceeding for the same or a like purpose. (O., 52.)

(2) If any defendant claims to be entitled to any equitable estate or right, or to relief upon any equitable ground against any deed, instrument or contract, or against any right, title or claim, asserted by any plaintiff or petitioner in such cause or matter, the said Supreme Court and every Judge thereof shall give to every equitable estate, right or ground of relief so claimed, and to every equitable defence so alleged, such and the same effect by way of defence against the claim of such plaintiff or petitioner as the High Court of Justice in England would give if the same or like matters had been relied on by way of defence in any suit or proceeding instituted in that Court for the same or the like purpose. (O., 52, 6.)

(3) The said Supreme Court and every Judge thereof shall also have power to grant to any defendant in respect to any equitable estate or right or other matter of equity, and also in respect of any legal estate, right or title claimed or asserted by him, all such relief against any plaintiff or

petitioner, as such defendant shall have properly claimed by his pleading; and also all such relief relating to or connected with the original subject of the cause or matter, and in like manner claimed against any other person, whether already a party to the same cause or matter or not, who shall have been duly served with notice in writing of such claim pursuant to this Ordinance, or any order of the Court as might properly have been granted against such person if he had been made a defendant to a cause duly instituted by the same defendant for the like purpose, and every person served with any such notice shall thenceforth be deemed a party to such cause or matter, with the same rights in respect of his defence against such claim as if he had been duly sued in the ordinary way by such defendant. (O., 52. 7.)

(4) The said Court and every Judge thereof shall recognize and take notice of all equitable estates, titles and rights and all equitable duties and liabilities appearing incidentally in the course of any cause or matter in the same manner in which the High Court of Justice in England would have recognized and taken notice of the same in any suit or proceeding, duly instituted therein. (O., 52, 8.)

(5) The Supreme Court, in the exercise of its jurisdiction in every cause or matter pending before it shall have power to grant, and shall grant, either absolutely or on such reasonable terms and conditions as to it shall seem just, all such remedies whatsoever as any of the parties thereto may appear to be entitled to in respect of any and every legal or equitable claim properly brought forward by them respectively in such cause or matter: so that as far as possible all matters so in controversy between the said parties respectively may be completely and finally determined, and all multiplicity of legal proceedings concerning any such matters avoided. (O., 52, 12.)

10. The law to be hereafter administered in the Territories as to the matters next hereinafter mentioned shall be as follows:—

(1) No claim of a *cestui que trust* against his trustee, for

any property held on an express trust, or in respect of any breach of such trust, shall be held to be barred by any Statute of Limitations. (O., 53, 1.)

(2) An estate for life, without any impeachment of waste, shall not confer, or be deemed to have conferred, upon the tenant for life, any legal right to commit waste of the description known as equitable waste unless an intention to confer such right shall expressly appear by the instrument creating such estate. (O. 53, 2.)

(3) There shall not be any merger by operation of law only, of any estate, the beneficial interest in which would not be deemed to be merged or extinguished in equity. (O. 53, 3.)

(4) A mortgagor, entitled for the time being, to the possession or receipt of the rents and profits of any land as to which no notice of his intention to take possession, or to enter into the receipts of the rents and profits thereof, shall have been given by the mortgagee, may sue for such possession, or sue or distrain for the recovery of such rents or profits, or to prevent or recover damages in respect of any trespass or other wrong relative thereto, in his own name only, unless the cause of action arises upon a lease or other contract made by him jointly with any other person, and in that case he may sue or distrain jointly with such other person. (O. 53, 4.)

(5) In case of an assignment of a debt or other *chose in action*, if the debtor, trustee, or other person liable in respect of such debt or *chose in action* shall have had notice that such assignment is disputed by the assignor, or any one claiming under him, or of any other opposing or conflicting claims to such debt or *chose in action*, he shall be entitled, if he think fit, to call upon the several persons making claim thereto, to interplead concerning the same. (O. 53, 5.)

(6) Stipulations in contracts as to time or otherwise which would not heretofore have been deemed to be or to have become of the essence of such contracts in a Court of Equity, shall receive in the Territories the same construction and effect as they would in Equity. (O. 53, 6.)



(7) Part performance of an obligation either before or after a breach thereof, when expressly accepted by the creditor in satisfaction or rendered in pursuance of an agreement for that purpose, though without any new consideration shall be held to extinguish the obligation. (O. 53, 7.)

(8) A mandamus or an injunction may be granted or a receiver appointed by an interlocutory order of the Court or Judge in all cases in which it shall appear to the Court or Judge to be just or convenient that such order should be made and any such order may be made either unconditionally or upon such terms and conditions as the Court or Judge shall think just; and if an injunction is asked either before or at, or after the hearing of any cause or matter, to prevent any threatened or apprehended waste or trespass, such injunction may be granted, if the Court or Judge shall think fit, whether the person against whom such injunction is sought is or is not in possession under any claim of title or otherwise, or (if out of possession) does or does not claim a right to do the act sought to be restrained under any color of title: and whether the estates claimed by both or by either of the parties are legal or equitable. (O. 53, 8.)

(9) In all cases in which the Court has jurisdiction to entertain an application for an injunction against a breach of any covenant, contract or agreement or against the commission or continuance of any wrongful act, or for the specific performance of any covenant, contract or agreement, the Court, if it thinks fit, may award damages to the party injured either in addition to or in substitution for such injunction or specific performance, and such damages may be ascertained in such a manner as the Court may direct, or the Court may grant such other relief as it may deem just. (O. 53, 9.)

(10) An order of the Court under any statutory or other jurisdiction, shall not as against a purchaser, whether with or without notice, be invalidated on the ground of want of jurisdiction or of want of any concurrence, consent, notice or service. (O. 53, 10.)

(11) Generally, in all matters in which there is any conflict or variance between the Rules of Equity and Common

Law with reference to the same matter, the rules of Equity shall prevail. (O. 53, 11.)

SECURITIES AND OATHS OF OFFICE OF CLERKS AND  
SHERIFFS.

11. Every Clerk and every Sheriff, before entering upon the duties of their respective offices, shall file in the "Land Titles Office" nearest to the office of such Clerk and Sheriff respectively, a copy, certified as such by the Secretary of State for Canada, of the security required by and given under Section fifty-eight of The North West Territories Act.

12. For receiving such certified copy, and filing the same of record, the Registrar shall be entitled to a fee of one dollar, and for every copy issued and certified by him as aforesaid, one dollar, and for exhibiting the said security to any applicant, twenty-five cents.

13. Such security shall be available to, and may be sued upon by any person suffering damages by the default, breach of duty or misconduct of such Clerk and Sheriff respectively.

14. A copy of such security, purporting to be such, certified by the Registrar, under his seal of office, shall be received in all Courts as *prima facie* evidence of the due execution and contents thereof, without further proof.

15. Every such Clerk and every such Sheriff, either before or at the first Sitting of the Court of the Judicial District to which they respectively have been appointed, shall, before the Judge, take oath of office in the Form in the Appendix to this Ordinance.

16. Whenever a vacancy occurs in the office of Clerk, and until the same be filled by the proper authority, the said books, records, moneys, and other matters and things so declared to be the property of the Government of the Territories, shall be handed over by the person in whose possession or control they may be to such person as the Judge usually exercising jurisdiction in the Judicial District

shall appoint to receive the same, and such appointee during such vacancy, is authorized to perform the duties of the Clerk of the Court.

#### CLERK'S DUTIES.

17. The duties of the Clerk shall be:—

(1) To attend at his office and keep the same open between the hours of ten in the forenoon and four in the afternoon, on all days except Sundays and holidays, and except on Saturdays and during vacation, when the same shall be closed at one o'clock in the afternoon:

~~(2) To receive all complaints and other papers required by suitors to be filed in Court;~~ to issue all writs of summons, warrants, precepts, writs of execution, and other documents rendered necessary or requisite for the effectual disposition of such matters: tax costs, enter judgments, and record all judgments and orders pronounced, given and made: keep an account of all fines, fees, and monies payable or paid into Court; entering all such amounts in proper approved books, in which shall be entered regularly, under separate headings, all the proceedings taken in any suit, all monies received and paid out, and the persons to whom and by whom the same have been paid, which books shall be accessible at all times to suitors and the public; and to do and perform all such other acts and duties as may be necessary for the due administration of civil justice in the Territories;

(3) To make a return, on the first day of the months of January and July in each year, verified on oath before the Judge, to the Lieutenant-Governor, showing the emoluments of his office during the six months next preceeding.

(4) All books, papers, documents and moneys, in the possession of the Clerk by virtue of or appertaining to his office, shall, upon his resignation, removal, or death, immediately become the property of such person as the Judge usually exercising jurisdiction in the district shall appoint as Clerk, pending the appointment of a new Clerk of the Court.

## SMALL DEBT PROCEDURE.

18. In all claims and demands of debt, or breach of contract, whether payable in money or otherwise, where the amount or balance claimed does not exceed \$100, the procedure shall be as follow :—

(1) The Plaintiff shall file with the Clerk a copy of his claim or demand in writing, with dates and items in detail, and thereupon a summons shall issue in the Form A in the Appendix hereto.

(2) The Plaintiff shall endorse upon the copy of his claim or demand filed, his name and proper post office address.

(3) Within ten days after the service of the summons, the defendant, if he wishes to dispute the claim, shall file with the Clerk a notice that he disputes the said claim. Where the subject matter of the defence is set off or counter-claim, the defendant shall file with his notice of dispute the particulars thereof.

(4) A defendant shall state in his notice of dispute his proper Post Office address.

(5) The service of all process mentioned in this Section shall be personal, unless otherwise ordered by the Court or a Judge.

(6) The Judge shall, from time to time, as he shall decide, appoint a day and place for the trial.

(7) The Clerk of the Court, upon such day and place being appointed shall send by registered letter prepaid to all of the parties to any action ready for trial addressed according to the Post Office address given by such parties a notice (Form B) stating the time and place appointed for trial.

(8) The Clerk of the Court shall be entitled, for the services required by the four preceding subsections to such fees as may be prescribed from time to time by the Judges of the Supreme Court.



(9) In all actions coming within the provisions of this Section, a Judge may allow to the successful party an Advocate's fee of such an amount as to him shall seem proper which said fee, and the necessary witness fees and disbursements in the action, shall be the only costs allowed against any unsuccessful party.

(10) The several provisions of this Ordinance respecting striking out defences and examination of parties, shall apply to actions brought under this Section.

#### GENERAL PROCEDURE.

19. Every action shall be commenced by writ of summons in the Form given in the Appendix to this Ordinance, except in cases where a different Form is provided, which writ shall be issued by the Clerk, upon receiving from the plaintiff or his advocate a præcipe therefor, in which shall be set forth the names of the parties to the action, and their places of residence, temporary or otherwise, and the residence of the plaintiff's advocate, if such writ be issued by an advocate.

20. At the time of the issue of the writ the plaintiff or his advocate shall leave with the Clerk two copies of the plaintiff's statement of claim, and of the relief or remedy to which he claims to be entitled; one of such copies shall be attached to such writ by the Clerk and the other shall be filed by him in his office, and a copy of such statement of claim shall be attached to each copy of such writ required for service.

21. Every writ of summons, and also (unless otherwise provided) every other writ shall bear the date of the day on which the same is issued.

(1) When the Defendant resides in the Judicial District whence the writ of summons issued, the writ shall be returnable after the expiration of ten days from the service upon the defendant.

(2) When the defendant resides in a Judicial District other than that in which the writ issued, the writ shall be

returnable after the expiration of twenty days from the service thereof, provided that the Judge may by order shorten the time for the return of such writ.

(3) When in any action there are two or more defendants, one or more residing in the Judicial District whence the writ issues and the other or others residing in another Judicial District, a concurrent writ may issue for service on the defendant or defendants residing in such other Judicial District and such concurrent writ shall be returnable after the expiration of twenty days from the service thereof, provided that the Judge may by order shorten the time for the return of such writ or may order that service of the original writ upon all the defendants shall, in such case, be sufficient.

(4) When after writ is issued it is made to appear that the defendant or one of several defendants, is without the Territories, on application as is hereafter provided for service out of the jurisdiction the Judge may order a concurrent writ to issue.

22. The advocate of a plaintiff, suing by an advocate, shall indorse on the writ the address of the plaintiff, and also his ownname or firm and place of business, and also if his place of business shall be more than three miles from the Clerk's office, whence the writ issues, another proper place, within such three miles, to be called his "address for service," where statements of defence, notices, summonses, orders, and other documents, proceedings and written communications in the suit may be left for him; and when a plaintiff sues in person he shall indorse on the writ his occupation and place of residence, and if his residence be more than three miles from the Clerk's office as aforesaid, another proper place within such three miles to be called his "address for service," where statements of defence, notices, summonses, orders and other documents, proceedings and written communications in the suit may be left for him. In case of the omission to supply an address for service as aforesaid, all papers requiring service may be posted in the Clerk's office, and in such case be deemed good service. [E. 19 & 20.]

23. The plaintiff in any action may, at the time of or at

any time within twelve months after the issuing of the original writ of summons, issue one or more concurrent writ or writs. Each concurrent writ to show date of the original writ, and be marked with the word "concurrent" in the margin, and the date of issuing the concurrent writ: provided always that such concurrent writ or writs shall only be in force for the period during which the original writ in such action shall be in force.

24. No original writ of summons shall be in force for more than twelve months from the date thereof, including the day of such date; but if any defendant therein named shall not have been served therewith, the plaintiff may, before the expiration of the twelve months, apply to the Judge for leave to renew the writ, and the Judge, if satisfied that reasonable efforts have been made to serve such defendant, or for other good reason, may order that the original or concurrent writ of summons (or both) be renewed for six months from the date of such renewal, inclusive, and so from time to time during the currency of the renewed writ: and the writ shall in such case be renewed by being marked with the day, month and year of such renewal, and be so marked by the Clerk, upon the plaintiff or his advocate filing the Judge's order and presenting to him the said writ; and a writ of summons so renewed shall remain in force and be available, to prevent the operation of any statute whereby the time for the commencement of the action may be limited, and for all other purposes, from the date of the issuing of the original writ of summons. [E. 45.]

25. The production of a writ of summons, purporting to have been renewed in manner aforesaid, shall be sufficient evidence of the writ having been so renewed and of the commencement of the action as of the first date of such renewed writ for all purposes. [E. 46.]

26. Where a writ, of which the production is necessary, has been lost, the Judge, upon being satisfied of the loss and of the correctness of a copy thereof, may order that such

copy shall be sealed and used in lieu of the original writ. [E. 47.]

27. Every advocate whose name is signed to or indorsed on any writ of summons shall, on demand in writing made by or on behalf of any defendant who has been served therewith or has appeared thereto, declare forthwith whether such writ has been issued by him or with his authority or privity, and on declaration by such advocate that the writ was not issued by him or with his authority or privity, all proceedings upon the same shall be stayed, and no further proceedings shall be taken thereupon without leave of the Judge.

28. A party suing or defending by an advocate may change his advocate in any cause or matter without an order for that purpose, upon notice of such change being filed in the Clerk's office in which the cause or matter is proceeding. But until such notice is filed, and a copy thereof served, the former advocate shall be considered the advocate of the party, until the final conclusion of the cause or matter. (E. 44.)

29. Where a party after having sued or appeared in person has given notice in writing to the opposite party or his advocate through an advocate, that such advocate is authorized to act in the cause or matter on his behalf, all writs, notices, pleadings, summonses, orders, warrants and other documents, proceedings and written communications which ought to be delivered to or served upon the party on whose behalf the notice is given shall thereafter be delivered to or served upon such advocate.

30. Service of a writ of summons may be made by the Sheriff, his deputy or bailiff, or by any literate person other than a plaintiff, but except by order of a Judge, no fees for service shall, in such latter case, be allowed.

31. Service of summons shall be effected by copy as follows :—

(1) The summons to appear may be served anywhere in the Territories; and the service shall be personal.



(2) In case any defendant is out of the Territories, but has an agent, managing clerk or other representative resident and carrying on his business within the same, service of the summons to appear may be made on such agent, managing clerk or other representative ;

(3) Every summons issued against a corporation, and all other proceedings in an action against a corporation, may be served on the president or other head officer, or on the cashier, manager, treasurer, or secretary, clerk, agent or other representative, by whatsoever name or title he be known, of such corporation, or of any branch or agency thereof in the Territories ; and every person who within the said Territories transacts or carries on any business of or for any corporation whose chief place of business is without the said Territories, shall, for the purpose of being served with a summons to appear, or any other proceedings as aforesaid in an action against or at the suit of such corporation, be deemed the agent thereof ;

(4) In any case if it be made to appear to a Judge that the plaintiff is, from any cause, unable to effect prompt personal service, the Judge may make such order for substituted or other service, by advertisement or otherwise, as may be just ;

(5) Where persons are sued as partners in the name of their firm, the writ shall be served either upon any one or more of the partners, or at the principal place within the Territories of the business of the partnership, upon any person, having at the time of service the control or management of the partnership business there, and such service shall be deemed good service upon the firm ; [E. 53.]

(6) Where one person carrying on business in the name of a firm, apparently consisting of more than one person, shall be sued in the firm name, the writ may be served at the principal place, within the Territories, of the business so carried on upon any person having at the time of service the control or management of the business there, and such service, if sufficient in other respects, shall be deemed

good service on the person so sued, whether any of the members thereof are out of the jurisdiction or not, and no leave to issue a writ against them shall be necessary. [E. 54.]

(7) Service of a writ of summons in an action to recover possession of land may, in case of vacant possession, when it cannot be otherwise effected, by leave of the Judge, be made by posting a copy of the writ and statement of claim upon the door of the dwelling house or other conspicuous part of the premises ; [E. 56.]

(8) When husband and wife are both defendants to the action, they shall both be served, unless the Judge shall otherwise order :

(9) When an infant is a defendant to the action, service on his father or guardian, or if none, then upon the person with whom the infant resides or under whose care he is, shall, unless the Judge otherwise orders, be deemed good service on the infant ; provided that the Judge may order that service made or to be made on the infant shall be deemed good service ;

(10) When a lunatic, or person of unsound mind, is a defendant to the action, service may be made as the Judge may order ;

(11) In any case if it be made to appear to a Judge that the original writ has been served upon the defendant, instead of a copy, he may order that such service be good service, and may in such order dispense with the production of such original ;

32. Service of summons on a defendant out of the Territories, may be allowed by a Judge whenever,—

(1) The whole subject-matter of the action is land situate within the Judicial District in which the action is to be brought (with or without rents or profits) ; or

(2) Any act, deed, will, contract, obligation or liability affecting land or hereditaments situate within the Judicial

District the action is to be commenced in, is sought to be construed, rectified, set aside or enforced in the action ; or

(3) Any relief is sought against any person domiciled or ordinarily resident within the jurisdiction ; or

(4) The action is for the administration of the estate of any deceased person, who at the time of his death was domiciled within the Judicial District, or for the execution (as to property the whole or some part of which is within such district) of the trusts of any written instrument, of which the person to be served is a trustee, which ought to be executed according to the laws of the Territories ; or

(5) The action is for the recovery of any debt contracted within the jurisdiction, or is founded on any breach or alleged breach within the jurisdiction of any contract wherever made, which according to the terms thereof ought to be performed within such jurisdiction ; or *founded on a tort committed within the jurisdiction ; or*

(6) An injunction is sought as to anything to be done within the jurisdiction, or any nuisance within the jurisdiction is sought to be prevented or removed, whether damages are or are not also sought in respect thereof ; or

(7) Any person out of the jurisdiction is a necessary and proper party to an action properly brought against some other person duly served within the jurisdiction ; or

(8) The action is upon a foreign judgment, and it is proved to the satisfaction of a Judge that the defendant has assets within the North West Territories.

33. Every application for leave to serve such summons on a defendant out of the jurisdiction shall be before writ issue, except as hereinbefore provided for, and supported by affidavit stating that in the belief of the deponent the plaintiff has a good cause of action, and showing in what place or country the defendant is or probably may be found, and the grounds on which the application is made ; but no such leave shall be granted unless it shall be made sufficiently to appear to the Judge that the case is a proper one for service out of the Territories aforesaid.

34. Any order giving leave to effect such service shall limit a time after such service, within which such defendant is to enter an appearance, such time to depend on the place or country where or within which the writ is to be served. [E. 68.]

(1) In any such case if it be made to appear to a Judge that service as ordered out of the jurisdiction cannot be made and that reasonable efforts (showing them) have been made to effect such service, the Judge may make an order for substitutional service by advertisement or otherwise as may seem proper.

35. Where personal service of any notice, pleading, order, summons, warrant, or other document, proceeding, or written communication is required the service shall be effected as nearly as may be in the manner prescribed for the personal service of a writ of summons.

36. Where personal service of any notice, pleading, summons, order, warrant, or other document, proceeding, or written communication is required and it is made to appear to the Court or a Judge that prompt personal service cannot be effected, the Court or the Judge may make such order for substituted or other service, for the substitution of notice for service by letter, public advertisement, or otherwise as may be just.

#### PARTIES.

37. All persons, in whom the right to any relief claimed is alleged to exist, may be joined as plaintiffs, whether jointly, severally, or in the alternative; and judgment may be given for such one or more of the plaintiffs as may be found to be entitled to relief, for such relief as he or they may be entitled to without any amendment. But the defendant, though unsuccessful, shall be entitled to his costs occasioned by so joining any person who shall not be found entitled to relief, unless the Judge in disposing of the costs shall otherwise direct. (E. 123).

38. Where an action has been commenced in the name of the wrong person as plaintiff, or where it is doubtful



whether it has been commenced in the name of the right plaintiff, the Judge may, if satisfied that it has been so commenced through a *bona fide* mistake, and that it is necessary for the determination of the real matter in dispute so to do, order any other person to be substituted or added as plaintiff upon such terms as may be just. (E. 124.)

39. All persons may be joined as defendants against whom the right to any relief is alleged to exist, whether jointly, severally, or in the alternative. And judgment may be given against such one or more of the defendants as may be found to be liable, according to their respective liabilities without any amendment, (E. 126.)

40. It shall not be necessary for every defendant to be interested as to all the relief prayed for, or as to every cause of action included in any proceedings against him; but the Judge may make such order as may appear just to prevent any defendant from being embarrassed or put to expense by being required to attend any proceedings in which he may have no interest. (E. 127.)

41. The plaintiff may, at his option, join as parties to the same action all or any of the persons severally, or jointly and severally, liable on any one contract, including parties to bills of exchange and promissory notes. (E. 128.)

42. Where the plaintiff is in doubt as to the person from whom he is entitled to redress, he may, by leave of the Judge, join two or more defendants, to the intent that the question as to which, if any, of the defendants is liable and to what extent, may be determined as between all parties. (E. 129.)

43. Trustees, executors and administrators may sue and be sued on behalf of or as representing the property or estate of which they are trustees or representatives, without joining any of the persons beneficially interested in the trust or estate and shall be considered as representing such persons: but the Judge may, at any stage of the proceedings, order any such persons to be made parties either in addition to or in lieu of the previously existing parties. [E. 130.]

44. Where there are numerous persons having the same interest in one cause or matter, one or more of such persons may sue or be sued, or may be authorized by the Judge to defend in such cause or matter, on behalf or for the benefit of all persons so interested. [E. 131.]

45. In cases where the statement of claim is for an account or involves the taking of an account, if the defendant either fails to appear, or does not after appearance satisfy the Judge that there is some preliminary question to be tried, the plaintiff may obtain an order directing the taking of proper accounts: and if the plaintiff sues or the defendant is sued in a representative capacity, the statement of claim shall show in what capacity the plaintiff or defendant sues or is sued: and in cases in which the plaintiff in the first instance desires to have an account taken, the statement of claim shall request the same. [E. 121.]

45. No cause or matter shall be defeated by reason of the misjoinder or nonjoinder of parties, and the Judge may in every cause or matter deal with the matter in controversy so far as regards the rights and interests of the parties actually before him. The Judge may, at any stage of the proceedings, either upon or without the application of either party, and on such terms as may appear just, order that the names of any parties improperly joined, whether as plaintiffs or defendants, be struck out, and that the names of any parties, whether plaintiffs or defendants, who ought to have been joined, or whose presence in the cause may be necessary in order to enable the Judge to effectually and completely adjudicate upon and settle all the questions involved in the cause or matter, be added. Every party whose name is so added as a defendant shall be served with a summons or notice in such manner as the Judge may order, and the proceedings as against such party shall be deemed to have begun only on the service of such summons or notice. [E. 133.]

47. Any application to add or to strike out or substitute a plaintiff or defendant may be made to the Judge at any time before trial, supported by affidavit, or at the trial of the action, in a summary manner. [E. 134.]

## PARTNERS.

48. Any two or more persons claiming or being liable as co-partners and carrying on business within the jurisdiction may sue or be sued in the name of the respective firms, if any, of which such persons were co-partners at the time of the accruing of the cause of action ; and any party to an action may in such case apply by summons to a Judge for a statement of the names and addresses of the persons who were, at the time of the accruing of the cause of action, co-partners in any such firm, to be furnished in such manner, and verified on oath or otherwise, as the Judge may direct.

49. When a writ is sued out by partners in the name of their firm, the plaintiffs or their solicitors shall, on demand in writing by or on behalf of any defendant, forthwith declare in writing the names and places of residence of all the persons constituting the firm on whose behalf the action is brought. And if the plaintiffs or their advocates shall fail to comply with such demand, all proceedings in the action may, upon an application for that purpose, be stayed upon such terms as the Court or a Judge may direct. And when the names of the partners are so declared, the action shall proceed in the same manner and the same consequences in all respects shall follow as if they had been named as the plaintiffs in the writ. But all the proceedings shall nevertheless, continue in the name of the firm.

50. Where persons are sued as partners in the name of their firm, the writ shall be served either upon any one or more of the partners or at the principal place, within the jurisdiction, of the business of the partnership upon any person having at the time of service the control or management of the partnership business there ; and, subject to these Sections, such service shall be deemed good service upon the firm so sued, whether any of the members thereof are out of the jurisdiction or not, and no leave to issue against them shall be necessary : provided that in the case of a co-partnership which has been dissolved to the knowledge of the plaintiff before the commencement of the action, the writ of summons shall be served upon every person within the jurisdiction sought to be made liable.

51. When a writ is issued against a firm and is served as directed, every person upon whom it is served shall be informed by notice in writing given at the time of such service whether he is served as a partner or as a person having control or management of the partnership business, or in both characters. In default of such notice, the person served shall be deemed to be served as a partner.

52. Where persons are sued as partners in the name of their firm, they shall appear individually in their own names; but all subsequent proceedings shall, nevertheless, continue in the name of the firm.

53. Where a writ is served upon a person having the control or management of the partnership business, no appearance by him shall be necessary unless he is member of the firm sued.

54. Any person served as a partner may enter an appearance under protest, denying that he is the partner, but such appearance shall not preclude the plaintiff from otherwise serving the firm and obtaining judgment against the firm in default of appearance if no partner has entered an appearance in the ordinary form.

55. Any person carrying on business in the name of a firm apparently consisting of more than one person, may be sued in the name of such firm. [E. 137.]

#### PERSONS UNDER DISABILITY.

56. Infants, lunatics, and persons of unsound mind may sue as plaintiffs, by Guardians appointed by the Judge on application made to him for the purpose, and may defend any action in like manner. [E. 138.]

#### THIRD PARTY PROCEDURE.

57. Where a defendant claims to be entitled to contribution, or indemnity, over against any person not a party to the action, he may, by leave of the Court or a Judge, issue a notice (hereinafter called the third-party notice) to that effect, stamped with the



seal with which writs of summonses are sealed. A copy of such notice shall be filed with the Clerk and served on such person according to the rules relating to the service of writ of summons. The notice shall state the nature and grounds of the claim, and shall, unless otherwise ordered by the Court or a Judge, be served within the time limited for delivering his defence, and therewith shall be served a copy of the statement of claim and a copy of the writ of summons in the action.

58. If a person not a party to the action, who is served as mentioned in the preceding Section (hereinafter called the third party), desires to dispute the plaintiff's claim in the action as against the defendant on whose behalf the notice has been given, or his own liability to the defendant, the third party must enter an appearance in the action within ten days from the service of the notice. In default of his so doing, he shall be deemed to admit the validity of the judgment obtained against such defendant, whether obtained by consent or otherwise, and his own liability to contribute or indemnify, as the case may be, to the extent claimed in the third-party notice. Provided always, that a person so served and failing to appear within the said period of ten days may apply to the Court or a Judge for leave to appear, and such leave may be given upon such terms, if any, as the Court or Judge shall think fit.

59. Where a third party makes default in entering an appearance in the action, in case the defendant giving the notice suffer judgment by default, he shall be entitled at any time, after satisfaction of the judgment against himself, or before such satisfaction by leave of the Court or a Judge, to enter judgment against the third party to the extent of the contribution or indemnity claimed in the third-party notice; provided that it shall be lawful for the Court or a Judge to set aside or vary such judgment upon such terms as may seem just.

60. Where a third party makes default in entering an appearance in the action, in case the action is tried and results in favor of the plaintiff, the Judge who tries the action may, at or after the trial, order the entry of such judgment as the nature of the case may require for the defen-

dant giving the notice against the third party; provided that execution thereof be not issued without leave of the Judge until after satisfaction by such defendant of the verdict or judgment against him. And if the action is finally decided in the plaintiff's favor, otherwise than by trial, the Court or a Judge may, on application by motion or summons, as the case may be, order such judgment as the nature of the case may require to be entered for the defendant giving the notice against the third party at any time after satisfaction by the defendant of the amount recovered by the plaintiff against him.

61. If a third party appears pursuant to the third-party notice, the defendant giving the notice may apply to the Court or a Judge for directions, and the Court or Judge, upon the hearing of such application, may, if satisfied that there is a question proper to be tried as to the liability of third party to make the contribution or indemnity claimed, in whole or in part, order the question of such liability, as between the third party and the defendant giving the notice, to be tried in such manner, at or after the trial of the action, as the Court or Judge may direct: and, if not so satisfied, may order such judgment as the nature of the case may require to be entered in favor of the defendant giving the notice against the third party.

62. The Court or a Judge upon the hearing of the application mentioned in the preceding Section, may, if it shall appear desirable to do so, give the third party liberty to defend the action, upon such terms as may be just, or to appear at the trial and take such part therein as may be just, and generally may order such proceedings to be taken documents to be delivered, or amendments to be made, and give such directions as to the Court or Judge shall appear proper for having the question most conveniently determined, and as to the mode and extent in or to which the third party shall be bound or made liable by the judgment in the action.

63. The Court or a Judge may decide all questions of costs, as between a third party and the other parties to the action, and may order any one or more to pay the costs of any other, or others, or give such direction as to costs as the justice of the case may require.

64. Where a defendant claims to be entitled to contribution or indemnity against any other defendant to the action, a notice may be issued and the same procedure shall be adopted, for the determination of such questions between the defendants, as would be issued and taken against such other defendant, if such last mentioned defendant were a third party; but nothing herein contained shall prejudice the rights of the plaintiff against any defendant in the action.

65. A plaintiff is not to be unnecessarily delayed in recovering his claim by reason of the questions between defendants in which the plaintiff is not concerned; and the Judge is to give such direction as may be necessary to prevent such delay of the plaintiff, where this can be done, on terms or otherwise, without injustice to the defendants.

#### CHANGE OF PARTIES BY DEATH.

66. A cause or matter shall not become abated by reason of the marriage, death or insolvency of any of the parties, if the cause of action survive or continue, and shall not become defective by the assignment, creation or devolution of any estate or title *pendente lite*; and, whether the cause of action survives or not, there shall be no abatement by reason of the death of either party between the verdict or finding of the issues of fact and the judgment; but judgment may in such case be entered, notwithstanding the death. (E. 178.)

67. In case of the marriage, death or assignment, or devolution of the estate by operation of law, of any party to a cause or matter, the Judge may, if it be deemed necessary for the complete settlement of all the questions involved, order that the husband, personal representative, trustee, or other successor in interest, if any, of such party be made a party, in such manner, and on such terms as the Judge shall think just and make such order for the disposal of the cause or matter as may be just. (E. 179.)

68. Where by reason of marriage, death or assignment, or any other event occurring after the commencement of a cause or matter, and causing a change or transmission of

interest or liability, or by reason of any person interested coming into existence after the commencement of the cause or matter, it becomes necessary or desirable that any person not already a party should be made a party, or that any person not already a party should be made a party in another capacity, the Judge may order that the proceedings shall be carried on between the continuing parties, and such new party or parties, in such manner and on such terms as may be thought proper. (E. 181.)

69. When the plaintiff or defendant in a cause or matter dies, and the cause of action survives, but the person entitled to proceed fails to proceed, on application of the defendant (or the person against whom the cause or matter may be continued), the Judge may order the plaintiff (or the person entitled to proceed) to proceed within a given period, and in default of such proceeding, judgment may be entered for the defendant, or, as the case may be, for the person against whom the cause or matter might have been continued. [E. 185.]

#### JOINDER OF CAUSES OF ACTION.

70. A plaintiff may unite in the same action several causes of action; but if it appears to the Judge that any such causes of action cannot be conveniently tried or disposed of together, he may order separate trials of any such causes of action to be had or may make such other order as may be necessary or expedient for the separate disposal thereof, or may order any such causes of action to be excluded, and consequential amendments to be made. [E. 188 and 196.]

#### PLEADING GENERALLY.

71. At any time before the return of the writ of summons, or afterwards, ~~on~~ before the plaintiff has taken any further step in the cause, if the defendant, or if there be more than one defendant in the action, a defendant desires to contest the plaintiff's claim and defend the action, he shall, by himself or his advocate, enter an appearance in the office of the Clerk whence the writ of summons issued, and within six days thereafter or such further time



as may by order of the Judge be allowed for the purpose, file in the Clerk's office a plain statement in writing showing the ground upon which the plaintiff's claim is contested either wholly or in part and serve on the plaintiff or his advocate or at the address supplied by the plaintiff when obtaining a writ of summons, a copy of such statement of defence.

72. Upon or with every appearance, when entered, a memorandum, in writing, shall be endorsed or attached, giving the defendant's address or the address of his advocate, if he defends by advocate; and, if the defendant or his advocate resides over three miles from the Clerk's office, naming an address within three miles of the Clerk's office, where documents in the suit requiring service upon him may be left, such place to be known and designated as his "address for service." [E. 80.]

*Ref. by No. 5.*

73. Where no appearance has been entered for a party all orders, notices, papers, documents in or relating to the action may, unless otherwise ordered by a Judge, be served by posting up the same or a copy thereof in the clerk's office and, where the address mentioned in the next preceding Section be not given, all such orders, notices, papers, and documents may be served in like manner; but, if an address is supplied and such address be illusory or fictitious, the Judge may on application of the plaintiff direct the manner in which such orders, notices, papers, and documents may be served.

74. Where a person is in possession of the land either by himself or by his tenant. [E. 95.]

76. Any person appearing to defend an action for the recovery of the possession of land as landlord, in respect of property whereof he is in possession only by his tenant, shall state in his appearance that he appears as landlord. [E. 96.]

77. Where a person not named as defendant in any writ of summons for the recovery of the possession of land, has obtained leave of the Judge to appear and defend, he shall comply with the provisions of this Ordinance in respect of defendants appearing and defending, and in all subsequent proceedings be named as a party defendant. (E. 97.)

78. Any person appearing to a writ of summons for the recovery of the possession of land, shall be at liberty to limit his defence to a part only of the property mentioned in the writ, describing that part with reasonable certainty in his appearance, and an appearance where the defence is not limited, as above mentioned, shall be deemed an appearance to defend for the whole. (E. 98.)

79. Where in an action there is more than one defendant, and one or more of such defendants have appeared while one or other of the defendants have not, the Judge, on application of the plaintiff, may either order the striking out any one or more of the defendants who has or have appeared on payment of costs or otherwise as may be considered just, and allowing the plaintiff to proceed with his action against the defendant or defendants who has or have not appeared, or may order the action to stand as against the non-appearing defendant or defendants while or until the issues raised between the plaintiff and defendant or defendants who has or have appeared be determined; or the Judge may order that the plaintiff be allowed to enter final judgment against the defendants who have not appeared, with or without proof of his claim, as may be considered proper, and to issue execution on such judgment without prejudice to the right of the plaintiff to proceed with the action against those defendants who have appeared. (E. 104 in part.)

80. When any defendant fails to appear to a writ of summons, and the plaintiff is desirous of proceeding upon default of appearance, he shall, before taking such proceeding upon default, file the original writ or an order dispensing with such filing with an affidavit of service or of compliance with any order for substitutional service, as the case may be. (E. 102.)

81. Where the plaintiff's claim is for a debt or liquidated demand only and the defendant fails, or all the defendants, if more than one, fail to appear thereto, the plaintiff may after the time limited for appearance has elapsed, enter final judgment for any sum not exceeding the sum claimed in the action, together with legal interest and costs of suit. [E. 103.]

82. Where the plaintiff's claim is for detention of goods and pecuniary damages, or either of them, and the defendant fails, or all the defendants if more than one, fail to appear, on application of the plaintiff, the Judge may assess the value or amount of damages, or either of them, or order that they shall be ascertained in any way he may direct, and judgment shall be entered thereupon with costs of suit. [E. 105.]

83. When the plaintiff's claim is, as in the last preceding Section mentioned, and there are several defendants, of whom one or more appear to the writ, and another or others of them fail to appear, on application of the plaintiff, the Judge may direct that the value of the goods and the damages, or either of them, as the case may be, may be assessed, as against the defendant or defendants failing to appear, at the same time as that of the trial of the action or issue therein against the other defendant or defendants. [E. 106 in part.]

84. Where in an action there are several defendants, of whom one or more have been served, and another or others of them have not, the Court or Judge may order the striking out of the defendant or defendants not served, and allow the plaintiff to proceed with his action against the defendant or defendants served on payment of costs or otherwise as may be considered just.

85. A plaintiff shall deliver his reply, if any, within eight days after the defence or the last of the defences shall have been delivered, unless the time shall be extended by the Court or Judge. [E. 276.]

86. No pleading subsequent to reply, other than a joinder of issue, shall be pleaded without leave of the Court or

a Judge, and then shall be pleaded only upon such terms as the Court or Judge shall think fit. [277.]

87. Subject to the last preceding Section, every pleading subsequent to reply shall be delivered within eight days after the delivery of the previous pleading, unless the time shall be extended by the Court or by a Judge.

88. If the plaintiff does not deliver a reply or any party does not deliver any subsequent pleading within the period allowed for that purpose, the pleadings shall be deemed to be closed at the expiration of that period, and all the material statements of fact in the pleading last delivered shall be deemed to have been denied and put in issue. [E. 306.]

89. As soon as any party has joined issue upon the preceding pleading of the opposite party simply without adding any further or other pleading thereto, or has made default as mentioned in the preceding Section, the pleadings between such parties shall be deemed to be closed. [E. 280.]

90. When the plaintiff's claim is for detention of goods and pecuniary damages, or either of them, and also for a liquidated demand, and any defendant fails to appear to the writ, the plaintiff may enter final judgement for the debt or liquidated demand, interests and costs against the defendant or defendants failing to appear, and proceed as mentioned in such of the preceding Sections as may be applicable. (E. 107.)

91. In case no appearance shall be entered in an action for the recovery of land, within the time limited for appearance, or if an appearance be entered but the defence be limited to part only, the plaintiff shall be at liberty to enter a judgment that the person whose title is asserted in the writ shall recover possession of the land, or of the part thereof to which the defence does not apply, with or without costs, as the Judge may order. (E. 108.)

92. When the plaintiff's statement of claim is for mesne profits, arrears of rent, or damages for breach of contract, and also for the recovery of land, he may enter judgment



as in the last preceding Section mentioned for the land; and may proceed as in the other preceding Sections mentioned, as to other such claim. [E. 109.]

93. Any order made by the Judge under the two last preceding Sections, and any judgment entered pursuant to such order may be set aside or varied by the Judge or the Court upon such terms as may be just. (E. 110.)

94. Where the action is in respect of a mortgage, lien or charge and the plaintiff claims foreclosure or sale or redemption, or where the action is for the administration of an estate or partition, the plaintiff, if the defendant does not appear, shall be entitled to such a judgment upon such evidence as the Judge may order. (N. S. 11 & 12.)

95. Any judgment entered upon default of appearance or in delivering any pleading, or in compliance with any order may be set aside or varied by the Court or Judge, upon such terms as may be just.

96. Where the action is brought to recover a debt or a liquidated demand, and the defendant enters an answer of the

96. (1) If, on the hearing of the application under this Section, it shall appear that a cause or causes of action other than for a debt or a liquidated demand have been joined therewith, the Judge may, if he shall think fit, forthwith amend the statement of claim by striking out such other cause or causes of action, or may deal with such claims for debts or liquidated demands as if no other claim had been joined in the action and allow the action to proceed as respects the cause or causes of action other than for such debt or liquidated demand.

97. The application by the plaintiff under the last preceding Section shall be by summons returnable on a day

named therein. A copy of the summons and copies of affidavits and exhibits referred to therein shall be served at least two clear days before the summons is returnable.

98. The defendant may show cause against such application by affidavits of himself or some one who can swear positively to the facts, or by offering to bring into court the amount claimed in the action. If by affidavit, such affidavit shall state whether the defence alleged goes to the whole or to part only, and if so, what part of the plaintiff's claim, and the Judge may, if he thinks fit, order the defendant or whoever makes the affidavit on his behalf, or in the case of a corporation any officer thereof, to attend and be examined on oath and to produce any letters, books or documents, or copies of or extracts therefrom. [E. 117.]

99. If it appears that the defence set up by the defendant applies only to a part of the plaintiff's claim, or that any part of the claim is admitted, the plaintiff may have judgment forthwith for such part of his claim as the defence does not apply to or is admitted, subject to such terms (if any) as to suspending execution or otherwise, as the Judge may order, and the defendant may be allowed to defend as to the residue of the plaintiff's claim. [E. 118.]

100. If it appears to the Judge that any defendant has a good defence or ought to be permitted to defend the action and that any other defendant has not such defence and ought not to be permitted to defend, the former may be permitted to defend and the plaintiff shall be entitled to have final judgment against the latter, and have execution thereon without prejudice to his right to proceed with his action against the former. [E. 119.]

101. Leave to defend may be given unconditionally or subject to such terms as to giving security or time and mode of trial or otherwise as the Judge may think fit. [E. 120.]

102. Every statement of claim or defence shall contain and contain only, a statement in a summary form of the material facts on which the party relies for his claim or defence, as the case may be, but not the evidence by which

they are to be proved, and shall, when necessary, be divided into paragraphs, numbered consecutively. Dates, sums and numbers shall be expressed in figures, and not in words. [E. 200.]

103. A defendant in an action may set off, or set up, by way of counter-claim, against the claims of the plaintiff, any right or claim, whether such set-off or counter-claim sound in damages or not, and such set-off or counter-claim shall have the same effect as a cross-action, so as to enable the Judge to pronounce a final judgment in the same action, both on the original and cross claim. But the Judge may, on application of the plaintiff before trial, if in his opinion such set-off or counter-claim cannot be conveniently disposed of in the pending action, or ought not to be allowed, refuse permission to the defendant to avail himself thereof; and, in any case in which the defendant sets up a counter-claim, the action of the plaintiff is stayed, discontinued, or dismissed, the counter-claim may nevertheless be proceeded with. (E. 199 and 249.)

104. Where a counter-claim is pleaded, a reply thereto shall be subject to the rules applicable to statements of defence. (E. 279.)

105. A further and better statement of the nature of the claim or defence, or written proceeding requiring particulars, may in all cases be ordered, upon such terms as may be just; but the order therefor shall not, *per se*, operate as a stay of proceedings or give any extension of time. (E. 203 and 204.)

106. Nothing in this Ordinance shall affect the right of any defendant to plead not guilty by statute; but if the defendant so plead, he shall not plead any other defence to the same cause of action without the leave of the Judge, and every plea of not guilty by statute shall have the same effect as a plea of not guilty by statute has heretofore had. (E. 208.)

107. Every allegation of fact in any pleading, not being a petition or summons, if not denied specifically or by necessary implication, or stated to be not admitted in the plead-

ing of the opposing party, shall be taken to be admitted, except as against an infant, lunatic, or person of unsound mind, not so found judicially. (E. 209.)

108. Any condition precedent, the performance or occurrence of which is intended to be contested, shall be distinctly specified in his pleading by the plaintiff or defendant (as the case may be): and subject thereto an averment of the performance or occurrence of all conditions precedent necessary for the case of the plaintiff or defendant shall be implied in his pleading. (E. 210.)

109. The defendant or plaintiff (as the case may be) must raise by his pleadings all matters which show the action or counter-claim not to be maintainable, or that the transaction is either void or voidable in point of law, and all such grounds of defence or reply, (as the case may be) as if not raised would be likely to take the opposite party by surprise, or would raise issues of fact not arising out of the preceding pleadings. (E. 211.)

110. No pleading, not being a petition or summons, shall, except by way of amendment, raise any new ground of claim, or contain any allegation of fact inconsistent with the previous pleadings of the party pleading the same. (E. 212.)

111. It shall not be sufficient for a defendant in his statement of defence to deny generally the grounds alleged by the plaintiff's statement of claim, or for the plaintiff in his reply to deny generally the grounds alleged in a defence by way of counter-claim, but each party must deal specifically with each allegation of fact of which he does not admit the truth, except damages. (E. 213.)

112. When a party in a pleading denies an allegation of fact in the previous pleading of the opposite party, he must not do so evasively, but answer the point of substance. Thus if it is alleged that he received a certain sum of money, it shall not be sufficient to deny that he received that particular amount, but he must deny that he received that sum or any part thereof, or else set out how much he received. And if an allegation be made with divers circum-



stances, it shall not be sufficient to deny it along with those circumstances. (E. 215.)

112. When a contract, promise or agreement is alleged in any pleading, a bare denial of the same by the opposite party shall be construed only as a denial of fact of the express contract, promise or agreement alleged or of the matters of fact from which the same may be implied by law, and not as a denial of the legality or sufficiency in law of such contract, promise or agreement, whether with reference to the statute of frauds or otherwise. (E. 216.)

114. Whenever the contents of any documents are material, it shall be sufficient in any pleading to state the effect thereof as briefly as possible, without setting out the whole or any part thereof, unless the precise words of the documents or any part thereof are material. [E. 217.]

115. Whenever it is material to allege malice, fraudulent intention, knowledge or other condition of the mind of any person, it shall be sufficient to allege the same as a fact without setting out the circumstances from which the same is to be inferred. [E. 218.]

116. Whenever it is material to allege notice to any person of any fact, matter, or thing, it shall be sufficient to allege such notice as a fact, unless the form or the precise terms of such notice, or the circumstances from which such notice is to be inferred, be material. [E. 219.]

117. Whenever any contract, or any relation between any persons is to be implied from a series of letters or conversations, or otherwise from a number of circumstances, it shall be sufficient to allege such contract or relation as a fact and to refer generally to such letters, conversations or circumstances, without setting them out in detail: and if in such case the person so pleading desires to rely in the alternative upon more contracts or relations than one as to be implied from such circumstances, he may state the same in alternative. [E. 220.]

118. Neither party need, in any pleading, allege any matter of fact which the law presumes in his favor, or as

to which the burden of proof lies upon the other side, unless the same has first been specifically denied. [E. 221.]

119. No technical objection shall be raised to any pleading on the ground of any alleged want of form. [222.]

120. The Judge may at any stage of the proceedings order to be struck out or amended any matter in any statement or pleading which may be unnecessary or scandalous or which may tend to prejudice, embarrass or delay the fair trial of the action with or without costs to be fixed by him and paid by the party so offending. [E.223.]

121. In cases of any action founded upon a bill of exchange or other negotiable instrument, the Judge may order that the loss of such instrument shall not be set up: provided such indemnity as he approves of is given against the claims of any other person upon such negotiable instrument. (N. S. 191.)

122. When a cause may have been set down for trial, such notice shall be given as the order of setting down directs.

123. Every statement, or pleading, may be either printed or written, or partly written and partly printed. (E. 205.)

#### JUDGMENT IN DEFAULT OF PLEADING.

124. If the plaintiff's claim be only for a debt or liquidated demand, and the defendant does not, within the time allowed for that purpose, deliver a defence, the plaintiff may, at the expiration of such time, enter final judgment for the amount claimed, with costs. (E. 295.)

125. When in any such action as in the last preceding Section mentioned there are several defendants, if one of them make default as mentioned in the last preceding Section, the plaintiff may enter final judgment against the defendant so making default, and issue execution upon such judgment without prejudice to his right to proceed with his action against other defendants. (E. 296, 297 and 298.)

126. If the plaintiff's claim be for detention of goods and pecuniary damages, or either of them, and the defendant, or all the defendants, if more than one, make default, in delivering a defence within the time allowed for that purpose, the plaintiff may enter an interlocutory judgment against the defendant or defendants, and a writ of inquiry shall issue to assess the value of the goods, and the damages, or damages only, as the case may be. But the Court or a Judge may order that, instead of a writ of inquiry, the value and amount of damages, or either of them, shall be ascertained in any way which the Court or Judge may direct.

127. When in any such action as in the preceding Section, mentioned there are several defendants, if one or more of them make default as in that Section defined, the plaintiff may enter an interlocutory judgment against the defendant or defendants so making default, and proceed with his action against the others. And in such case the value and amount of damages against the defendant making default, shall be assessed at the same time with the trial of the action or issues therein against the other defendants, unless the Court or a Judge shall otherwise direct.

128. If the plaintiff's claim be for a debt or liquidated demand, and also for detention of goods and pecuniary damages, or pecuniary damages only, and any defendant make default in delivering his defence as aforesaid, the plaintiff may enter final judgment for the debt or liquidated demand, and also enter interlocutory judgment for the value of the goods and the damages, or the damages only, as the case may be, and proceed as mentioned in the last two preceding Sections.

129. In an action for the recovery of land, if the defendant makes default in delivering a defence as aforesaid, the plaintiff may enter a judgment that the person whose title is asserted in the writ of summons shall recover possession of the land, with his costs.

130. Where the plaintiff's claim is for mesne profits, arrears of rent, or double value in respect of the premises claimed, or any part of them, or damages for breach of con-

tract or wrong or injury to the premises claimed in an action for the recovery of land, if the defendant makes default in delivering a defence as aforesaid or, if there be more than one defendant, some or one of the defendants make such default, the plaintiff may enter judgment against the defaulting defendant or defendants and proceed as provided for in Sections 126 and 127.

131. If the plaintiff's claim be for a debt or liquidated demand, the detention of goods and pecuniary damages, or for any such matters, or for the recovery of land, and the defendant delivers a defence, which purports to offer an answer to a part only of the plaintiff's alleged cause of action, the plaintiff may by leave of the Court or a Judge enter judgment, final or interlocutory, as the case may be, for the part unanswered, provided that the unanswered part consists of a separate cause of action, or is severable from the rest, as in the case of part of a debt or liquidated demand; provided also that, where there is a counterclaim, execution on any judgment as above mentioned in respect to the plaintiff's claim shall not be issued without leave of the Court or a Judge.

132. In all other actions than those in the last two preceding Sections mentioned, if the defendant makes default in delivering a defence, the opposite party may apply to the Court or a Judge for such judgment, if any, as upon the pleadings he may appear to be entitled to. And the Court or Judge may order judgment to be entered accordingly, or may make such other order as may be necessary to do complete justice between the parties.

133. Where, in any such action as mentioned in the last preceding Section there are several defendants, then, if one of such defendants make such default as aforesaid, the plaintiff may either (if the cause of action is severable) set down the action at once on motion for judgment against the defendant so making default, or may set it down against him at the time when it is entered for trial or set down on motion for judgment against the other defendants.

134. In any case in which issues arise in an action other than between plaintiff and defendant, if any party to any



such issue makes default in delivering any pleading, the opposite party may apply to the Court or a Judge for such judgment, if any, as upon the pleadings he may appear to be entitled to. And the Court or Judge may order judgment to be entered accordingly, or may make such other order as may be necessary to do complete justice between the parties.

#### PAYMENTS INTO, AND OUT OF COURT, AND TENDER.

135. When any action is brought to recover a debt or damages, any defendant may, before or at the time of delivering his defence, or at any later time by leave of the Judge, pay into court a sum of money by way of satisfaction, which shall be taken to admit the claim or cause of action in respect of which the payment is made. [E.255].

136. Payment into Court shall be signified in the defence, and the claim or cause of action in satisfaction of which such payment is made shall be specified therein. [E.256.]

137. With a defence setting up a tender before action, the sum of money alleged to have been tendered must be brought into Court. [E.257.]

138. When payment into Court is made before the delivery of the defence; or when the liability of the defendant, in respect of the claim or cause of action in satisfaction of which the payment into Court is made, is not denied in the defence; or when such payment is made with a defence setting up a tender of the sum paid the money paid into court shall be paid out to the plaintiff on his request, or to his advocate, on the plaintiff's written authority, unless the Judge shall otherwise order. [E.259.]

139. When the liability of the defendant, in respect of the claim or cause of action in satisfaction of which the payment into Court has been made, is denied in the defence, the following rules shall apply :

(1) The plaintiff may accept, in satisfaction of the claim or cause of action in respect to which the payment into Court has been made, the sums so paid in : in which case

he shall be entitled to have the money paid out to him as hereinafter provided, notwithstanding the defendant's denial of liability, whereupon all further proceedings, in respect of such claim or cause of action, except as to costs, shall be stayed; or the plaintiff may refuse to accept the money in satisfaction, and reply accordingly; in which case the money shall remain in Court, subject to the provisions hereinafter mentioned:

(2) If the plaintiff accepts the money so paid in, he shall be entitled to have the money paid out to himself on request or to his advocate, on the plaintiff's written authority, unless the Judge shall otherwise order;

(3) If the plaintiff does not accept, in satisfaction of the claim or cause of action in respect to which the payment into Court has been made, the sum so paid in, but proceeds with the action in respect of such claim or cause of action, or any part thereof, the money shall remain in Court and be subject to the order of the Court or a Judge, and shall not be paid out of Court except in pursuance of an order. If the plaintiff proceeds with the action in respect of such claim or cause of action, or any part thereof, and recovers less than the amount paid into Court, the amount paid shall be applied, as far as necessary, in satisfaction of the plaintiff's claim, and the balance if any, shall, under such order, be repaid to the defendant. If the defendant succeeds in respect of such claim or cause of action, the whole amount shall, under such order, be repaid to him. (E. 260.)

140. The plaintiff, when payment into Court is made before delivery of defence, may accept in satisfaction of the claim or cause of action in respect of which such payment has been made, the sum so paid in, in which case he shall give notice to the defendant of such acceptance, and shall be at liberty, in case the entire claim or cause of action is thereby satisfied, to tax his costs, after the expiration of four days from the service of such notice, unless the Judge shall otherwise order; and in case of non-payment of such costs, to have judgments and executions for his costs so taxed in the ordinary way. (E. 261.)

141. Where money is paid into Court in two or more

actions which are consolidated, and the plaintiff proceeds to trial in one, and fails, the money paid in, and the costs in all the actions, shall be dealt with in the same manner as in the action tried. (E. 262.)

142. A plaintiff may, in answer to a counter-claim, pay money into Court in satisfaction thereof, subject to the like conditions as to costs and otherwise as upon payment into Court by a defendant. (E. 263.)

143. Money paid into Court under an order of a Judge, shall not be paid out of Court except in pursuance of a Judge's order; provided that, where before the delivery of defence money has been paid into Court by the defendant pursuant to a Judge's order, he may, unless the Judge shall otherwise order, by his pleading appropriate the whole or any part of such money, and any additional payment, if necessary, to the whole or any specified portion of the plaintiff's claim; and the money so appropriated shall thereupon be deemed to be money paid into Court pursuant to the preceding Sections relating to money paid into Court and subject in all respects thereto. (E. 265.)

144. In any cause or matter in which a sum of money has been awarded to or recovered by an infant, or person of unsound mind, the Court or Judge may at or after the trial order that the whole or any part of such sum shall be paid into Court to the credit of the cause or matter; and any sum so paid into Court, and any dividends or interest thereon, shall be subject to such orders as may from time to time be made by the Court or Judge concerning the same, and may either be invested, or be paid out of Court, or transferred to such persons, to be held and applied upon and for such trusts and in such manner as the Court or Judge shall direct. (E. 269.)

145. Money paid into Court or securities purchased under the provisions of the last preceding Section, and the dividends or interest thereon, shall be sold, transferred, or paid out to the party entitled thereto, pursuant to the order of the Court or Judge. (E. 270.)

146. Cash under the control of, or subject to the order

of the Court, may be invested in Dominion securities. (E. 271.)

147. Notice of every application for the purpose of conversion of any securities, shall be served upon such persons, if any, as the Court or Judge may direct. [E.272.]

#### MATTERS ARISING PENDING THE ACTION.

148. Any ground of defence which has arisen after action brought, but before the defendant has delivered his statement of defence, and before the time limited for his doing so has expired, may be raised by the defendant in his statement of defence, either alone or together with other grounds of defence. And if, after a statement of defence has been delivered, any ground of defence arises to any set-off or counter-claim alleged therein by the defendant, it may be raised by the plaintiff in his reply, either alone or together with any other ground of reply. (E.282.)

149. Where any ground of defence arises after the defendant has delivered his statement of defence, or after the time limited for his doing so has expired, the defendant may, and where any ground of defence to any set-off or counter-claim arises after reply or after the time limited for delivering a reply has expired, the plaintiff may, within eight days after such ground of defence has arisen, or at any subsequent time by leave of the Court or Judge, deliver a further defence or further reply as the case may be, setting forth the same. (E.283.)

150. Whenever any defendant, in his statement of defence or in any further statement of defence, as mentioned in the last preceding Section, alleges any ground of defence which has arisen after the commencement of the action, the plaintiff may deliver a confession of such defence and may thereupon, unless otherwise ordered by the Judge, have judgment for his costs up to the time such defence was pleaded. (E.284.)

151. Any party shall be entitled to raise by his pleading any point of law, and any point so raised shall be disposed of by the Judge who tries the cause, at or after the trial,



provided that by consent of the parties, or by order of the Judge, on the application of either party, the same may be set down for hearing and disposed of at any time before the trial. (E.286.)

152. If, in the opinion of the Court or Judge, the decision of such point of law substantially disposes of the whole action, or of any distinct cause of action, ground of defence, set-off, counter-claim, or reply therein, the Court or Judge may thereupon dismiss the action, or make such order therein as may be just. (E. 287.)

153. The Court or Judge may order any pleading to be struck out, on the ground that it discloses no reasonable cause of action or answer, and in any such case, or in case of the action or defence being shown by the pleadings to be frivolous or vexatious, the Court or Judge may order the action to be stayed or dismissed or judgment to be entered accordingly, as may be just. (E. 288.)

154. After the close of the pleadings the plaintiff may, at any time on notice to the defendant, apply to the Judge for and obtain an order setting down the cause for trial at such time and place as the Judge shall direct. But if such application be not made within three months after the close of the pleadings, the defendant on notice may apply for and obtain an order to the like effect, or that the plaintiff's action be dismissed out of Court with costs to the defendant; but the Judge may, instead of dismissing the action at once, order such dismissal to take effect from a future date, unless the plaintiff meanwhile proceeds with his action.

155. On the application to set a cause down for trial if the action be for slander, libel, false imprisonment, malicious prosecution, seduction, breach of promise of marriage, or if the action arises out of a tort, wrong or grievance in which the damages claimed exceed five hundred dollars, or if the action be for debt or founded on contract wherein the amount claimed or the damages sought to be recovered exceed one thousand dollars, or if the action be for the recovery of real property, and either party signify his desire to have the issues of fact therein tried by a Judge with a

jury, or the Judge so directs, the same shall be tried by a jury.

156. The order for setting down a cause for trial by jury shall state by whom the necessary fees to be paid out shall be furnished, and the party so named shall deposit with the Clerk such sum as said Clerk considers sufficient for the payment of jurors' fees and the expenses of summoning a sufficient number of persons to form the jury, and the Clerk shall, after the trial, pay the said jury and summoning fees, and, if any balance of the money so deposited with him remains unused after paying such fees, return such balance to the party who deposited the same.

157. In any action the Judge may direct the evidence, *either wholly or in* to be taken by any Clerk of the Court, or by any other competent person; which Clerk or other person shall be sworn to take the same truly, and to reduce it to writing and on the return of the evidence, the Judge may give judgment upon the evidence taken by the Clerk or other person as aforesaid, or may order a new trial, when justice seems to require the same.

158. The jury for the trial of issues of fact in civil causes shall consist of six persons whose verdict shall be unanimous.

159. No action or proceeding shall be open to objection, on the ground that a merely declaratory judgment or order is sought thereby, and the Court or Judge may make binding declarations of right whether any consequential relief is or could be claimed or not. (E. 289.)

160. The plaintiff may at any time before receipt of the defendant's defence, or after the receipt thereof, before taking any other proceeding in the action (save any interlocutory application), by notice in writing wholly discontinue his action against all or any of the defendants, or withdraw any part or parts of his alleged cause of complaint, and thereupon he shall pay such defendant's costs of the action, or if the action be not wholly discontinued, the costs occasioned by the matter so withdrawn. Such costs shall be taxed, and such discontinuance or withdrawal

as the case may be, shall not be a defence to any subsequent action. Save as herein otherwise provided, it shall not be competent for the plaintiff to withdraw the record or discontinue the action without leave of the Court or Judge, but the Court or Judge may, before or at or after the hearing or trial upon such terms, as to the costs and as to any other action, and otherwise as may be just, order the action to be discontinued or any part of the alleged cause of complaint to be struck out. The Court or Judge may, in like manner, and with the like discretion, as to terms, upon the application of a defendant, order the whole or any part of his alleged grounds of defence or counter-claim to be withdrawn or struck out, but it shall not be competent to a defendant to withdraw his defence, or any part thereof, without such leave. (E. 290.)

161. When a cause has been entered for trial, it may be withdrawn by either plaintiff or defendant, upon producing to the Clerk of the Court a consent in writing, signed by the parties. (E. 291.)

162. Any defendant may have judgment for the costs of the action, if it is wholly discontinued against him, or for the costs occasioned by the matter withdrawn, if the action be not wholly discontinued, in case such respective costs are not paid within two days after taxation. (E. 292.)

163. If any subsequent action shall be brought before payment of the costs of a discontinued action, for the same or substantially the same cause of action the Court or Judge may, if deemed proper, order a stay of such subsequent action, until such costs shall have been paid. (E. 293.)

#### AMENDMENT.

164. The Court or a Judge may, at any stage of the proceedings, allow either party to alter or amend his statement of claim or pleadings, in such manner and upon such terms as may be just, and all such amendments shall be made as may be necessary for the purpose of determining the real questions in controversy between the parties. (E. 309.)

165. The plaintiff may, without any leave, amend his

statement of claim once at any time before the expiration of the time limited for reply and before replying. (E. 310.)

166. A defendant who has set up any counterclaim may without any leave amend such counterclaim at any time before the expiration of the time allowed him for answering the reply. (E. 311.)

167. Where any party has amended his pleading under either of the two preceding Sections, the opposite party may, within eight days after the delivery to him of the amended pleading, apply to the Court or a Judge to disallow the amendment, or any part thereof, and the Court or Judge may, if satisfied that the justice of the case requires it, disallow the same or allow it subject to such terms as to costs or otherwise as may be just. (E. 312.)

168. Where a party has amended his pleadings under Sections 165 or 166 the opposite party shall plead to the amended pleading, or amend his pleading within the time he then has to plead, or within eight days from the delivery of the amendment, whichever last shall expire; and in case the opposite party has pleaded before the delivery of the amendment, and does not plead again or amend within the time above mentioned, he shall be deemed to rely on his original pleading in answer to such amendment. (E. 313.)

169. In all cases not provided for by the preceding Sections, application for leave to amend may be made by either party to the Court or a Judge, or to the Judge at the trial of the action and such amendment may be allowed upon such terms as to costs or otherwise as may be just. (E. 314.)

170. If a party, who has obtained an order for leave to amend, does not amend accordingly within the time limited for that purpose by the order, or if no time is thereby limited, then within fourteen days from the date of the order, such order to amend shall, on the expiration of such limited time as aforesaid, or of such fourteen days, as the case may be, become *ipso facto* void, unless the time is extended by the Court or a Judge. (E. 315.)



171. Any statement or pleading may be amended by written alterations in the copy which has been delivered, and by additions on paper to be interleaved therewith, if necessary, unless the amendments require the insertion of more than 144 words in any one place, or are so numerous or of such a nature that the making them in writing would render the document difficult or inconvenient to read, in either of which cases the amendment must be made by delivering a printed or written copy of the document as amended. (E. 316.)

172. Whenever any statement or pleading is amended, the same, when amended shall be marked with the date of the order, if any, under which the same is so amended, and of the day on which such amendment is made, in manner following, viz.: "Amended                      day of                      [pursuant to order of                      , dated the                      day of                      .]" [E. 317.]

173. Whenever any statement or pleading is amended, such amended document shall be delivered to the opposite party within the time allowed for amending the same. [E. 318.]

174. Clerical mistakes in judgments or orders, or errors arising therein from any accidental slip or omission, may at any time be corrected by the Court or Judge on motion or summons, without an appeal. [E. 319.]

175. The Court or a Judge may at any time, and on such terms as to costs or otherwise as the Court or Judge may think just, amend any defect or error in any proceedings, and all necessary amendments shall be made for the purpose of determining the real question or issue raised by or depending on the proceedings. [E. 320.]

176. The costs of and occasioned by any amendment shall be borne by the party making the same, unless the Court or Judge shall otherwise order. [E. 321.]

#### DISCOVERY AND INSPECTION.

177. The plaintiff shall at the expiration of the time for

delivery of defence, and the defendant shall, after delivery of defence, be entitled on application to the Judge, *ex parte*, to an order directing any other party to any cause or matter to make discovery by affidavit of the documents which are or have been in his possession or power, relating to any matter in question therein.

178. The affidavit to be made by a party against whom such order as is mentioned in the last preceding Section has been made, shall specify, which, if any, of the documents therein mentioned he objects to produce. [E. 355.]

179. It shall be lawful for the Court or Judge at any time during the pendency of any cause or matter, to order the production by any party thereto, upon oath, of such of the documents in his possession or power relating to any matter in question in such cause or matter, as the Judge or Court shall think right; and the Court may deal with such documents, when produced, in such manner as shall appear just. [E. 356.]

180. Every party to a cause or matter shall be entitled, at any time, by notice in writing, to give notice to any other party, in whose pleadings or affidavits reference is made to any document, to produce such document for the inspection of the party giving such notice, or of his advocate, and to permit him or them to take copies thereof; and any party not complying with such notice shall not afterwards be at liberty to put any such document in evidence in his behalf in such cause or matter, unless he shall satisfy the Court or Judge that such document relates only to his own title, he being a defendant to the cause or matter, or that he had some other cause or excuse which the Court or Judge shall deem sufficient for not complying with such notice; in which case the Court or Judge may allow the same to be put in evidence on such terms as to costs and otherwise as the Court or Judge shall think fit. (E. 357.)

181. The party to whom such notice is given shall, within two days from the receipt of such notice, if all the documents therein referred to have been set forth by him in such affidavit as is mentioned in Section 178 of this Or-

dinance, or if any of the documents referred to in such notice have not been set forth by him in any such affidavit, then within four days from the receipt of such notice deliver to the party giving the same a notice stating a time within three days from the delivery thereof, at which the documents or such of them as he does not object to produce, may be inspected at the office of his advocate, or in case of banker's books or other books of account, or books in constant use for the purpose of any trade or business, at their usual place of custody, and stating which (if any) of the documents he objects to produce and on what ground. (E. 359.)

182. If the party served with notice under the last preceding Section of this Ordinance omits to give such notice of a time for inspection, or objects to give inspection, or offers inspection elsewhere than at the office of his advocate, the Judge may, on application of the party desiring it, make an order for inspection in such place and in such manner as he may think fit; and except in the case of documents referred to in the pleadings or affidavits of the party against whom the application is made, or disclosed in his affidavit of documents, such application shall be founded upon an affidavit showing of what documents inspection is sought, that the party applying is entitled to inspect them, and that they are in the possession or power of the other party. (E. 360.)

183. If the party from whom discovery of any kind or inspection is sought objects to the same or any part thereof, the Judge may, if satisfied that the right to the discovery or inspection sought depends on the determination of any issue or question in dispute in the cause or matter, or that for any other reason it is desirable that any issue or question in dispute in the cause or matter should be determined before deciding upon the right to the discovery by inspection, or that such issue or question be determined first, and reserve the question as to the discovery or inspection. (E. 362.)

184. If any person fails to comply with any order for discovery, or inspection of documents, he shall be liable to attachment for contempt of Court. He shall also, if a

plaintiff, be liable to have his action dismissed for want of prosecution, and if a defendant, to have his defence, if any, struck out, and to be placed in the same position as if he had not defended, and the party interrogating may apply to that effect, and an order may be made accordingly. (E. 363.)

185. Service of an order for discovery or inspection made against any party or his advocate, shall be sufficient service to found an application for an attachment for disobedience to order. But the party against whom the application for an attachment is made may show in answer to the application that he has had no notice or knowledge of the order. (E. 364.)

186. An advocate upon whom an order against any party for discovery or inspection is served under the last preceding Section, who neglects without reasonable excuse to give notice thereof to his client shall be liable to attachment. (E. 365.)

#### EXAMINATION FOR DISCOVERY.

187. Any party to an action whether plaintiff or defendant, or in the case of a body corporate, any one who is or has been one of the officers of such body corporate, may, without any special order for the purpose, be orally examined before the trial touching the matters in question in any action by any party adverse in point of interest; and may be compelled to attend and testify in the same manner, upon the same terms, and subject to the same rules of examination, as any witness, except as hereinafter provided.

188. A person for whose immediate benefit an action is prosecuted or defended is to be regarded as a party for the purpose of examination.

189. The examination on the part of a plaintiff may take place at any time after the statement of defence of the party to be examined has been delivered, or after the time for delivering the same has expired; and the examination on the part of a defendant may take place any time after such defendant has delivered his statement of defence; and



the examination of a party to an issue at any time after the issue has been filed.

190. Whenever a party is entitled to examine another party, he may procure an appointment therefor from the Clerk of the Supreme Court in the Judicial District where the action was commenced, and the party to be examined, upon being served with a copy of the appointment and a subpoena, and upon payment of the proper fees, shall attend thereon and submit to examination.

191. The party examining shall serve a copy of the appointment upon the advocate of the party to be examined, if he has an advocate in the cause at least forty-eight hours before the examination.

192. Upon application to the Court or a Judge, an order may be made for the examination of any party liable to be examined as aforesaid, before any other person or in any other place, whether within or without the jurisdiction of the Court, than those before mentioned, and upon service of a copy of the appointment of a person before whom the examination is to take place and a copy of the order upon the party to be examined, and upon payment of the proper fees, he is to attend and submit to examination. A copy of the appointment shall be served upon the advocate of the party <sup>or his agent</sup> at least forty-eight hours before the examination.

193. The party or person to be examined shall, if so required by notice, produce on the examination all books, papers, and documents which he would be bound to produce at the trial under a subpoena *duces tecum*.

(a) In the event of any witness on his examination, cross-examination or re-examination producing any book, document, letter, paper, or writing and refusing for good cause, to be stated in his deposition, to part with the original thereof, then a copy thereof or extract therefrom, certified by the Examiner to be a true and correct copy or extract, shall be attached to the depositions and form part thereof.

194. Any party or officer so examined, may be further examined on his own behalf, or on behalf of the body cor-

porate of which he is or has been an officer, in relation to any matter respecting which he has been examined in chief; and when one of several plaintiffs or defendants has been examined any other plaintiff or defendant united in interest may be examined on his own behalf or on behalf of those united with him in interest, to the same extent as the party examined.

195. Such explanatory examination shall be proceeded with immediately after the examination in chief, and not at any future period, except by leave of the Court or a Judge, and for the purposes of this and the preceding Section, when the officer of a body corporate has been so examined as aforesaid, on behalf of the body corporate, the body corporate shall be deemed to be fully represented by such officer.

196. Any party or person examined orally under the preceding sub-sections shall be subject to cross-examination and re-examination: and such examination, cross-examination, re-examination shall be conducted as nearly as may be in the mode in use on a trial.

197. A party to the action who admits, upon his examination, that he has in his custody or power any deed, paper, writing, or document relating to the matters in question in the case, upon the order of the person before whom he is examined, is to produce the same for his inspection, and for that purpose a reasonable time is to be allowed. But no party shall be obliged to produce any deed, paper, writing or document which is privileged or protected from production.

198. Either party may appeal from the order of the Examiner, and thereupon the examiner is to certify under his hand the question raised and the order made thereon.

199. Any party or person refusing or neglecting to attend at the time and place appointed for his examination, or refusing to be sworn or to answer any lawful question put to him by the Examiner or by any party entitled so to do or his Counsel, Advocate or Agent, shall be deemed guilty of a contempt of Court, and proceedings may be forthwith had by attachment. If a defendant, he shall be liable to have

his defence, if any, struck out and be placed in the same position as if he had not defended; and the party examining may apply to the Court or a Judge to that effect, and an order may be made accordingly.

200. If the party or person under examination demurs or objects to any question or questions put to him, the question or questions so put, and the objection of the witness thereto, shall be taken down by the examiner and transmitted by him to the office of the Court where the pleadings are filed, to be there filed: and the validity of such objection shall be decided by the Court or a Judge; and the costs of and occasioned by such objection shall be in the discretion of the Court or a Judge.

201. Subject to the two next following sub-sections, the depositions taken upon any such oral examination as aforesaid shall be taken down in writing by the examiner, not ordinarily by question and answer, but in the form of a narrative, expressed in the first person; and when completed shall be read over to the party examined and shall be signed by him in the presence of the parties or of such of them as may think fit to attend.

(a) In case the party or person examined refuses or is unable to sign the dispositions, then the examiner shall sign the same; and the examiner may upon every examination state any special matter to the Court if he thinks fit.

(b) It shall be in the discretion of the examiner to put down any particular question or answer, if there appears to be any special reason for so doing, and any question or questions objected to shall, at the request of either party, be noticed or referred to by the examiner in or upon the depositions; and he shall state his opinion thereon to the Counsel, Advocates, Agents or parties and, if requested by either party, he shall on the face of the dispositions refer to such statement.

202. In case of an examination before the trial, or otherwise than at the trial of an action, if the examining party desires to have such examination taken in shorthand, he shall be entitled to have it so taken at the place of exami-

nation, except where the Court or a Judge sees fit to order otherwise.

203. Where an examination in a cause or proceeding in any Court is taken by the Examiner, or any other authorized person, in shorthand, the examination may be taken down by question and answer; and in such cases it shall not be necessary for the depositions to be read over to, or be signed by, the person examined, unless the Judge so directs where the examination is taken before a Judge, or in other cases unless any of the parties so desires.

(a) A copy of the depositions so taken, certified by the person taking the same as correct, shall for all purposes have the same effect as the original depositions in ordinary cases.

<sup>such</sup> 204. Wherever, ~~by virtue of the preceding sub-sections,~~ any examination of any party or witness has been taken before a Clerk of the Supreme Court, or before any officer or other person authorized or appointed to take the same, the depositions taken down by the Examiner shall, at the request of any party interested and on payment of his fees be returned to and kept in the office of the Clerk of the Court from which the proceedings are being carried on; and office copies of such depositions may be given out, and the examinations and depositions certified under the hand of the Examiner taking the same, or a copy thereof certified under the hand of the Clerk of the Court, shall without proof of the signature be received and read in evidence, saving all just exceptions.

205. Every person taking examinations ~~under this Section~~ may, and if need be shall, make a special report to the Court in which such proceedings are pending, touching such examinations and the conduct or absence of any witness or other person thereon or relating thereto; and the Court shall institute such proceedings and make such order upon such report as justice may require, and as may be instituted and made in any case of contempt of Court.

206. Any party may, at the trial of an action or issue, or upon any application or motion, use in evidence any part of



the examination of the opposite parties; provided always that in such case the Judge may look at the whole of the examination, and if he is of opinion that any other part is so connected with the part to be so used that the last mentioned part ought not to be used without such other part, he may direct such other part to be put in evidence.

207. The cost of every examination of parties or of officers of corporations before the trial, or otherwise than at the trial of an action, shall be costs of the cause, but the Court or Judge in adjusting the costs of the action shall at the instance of any party inquire, or cause inquiry to be made, into the propriety of having made any such examination; and if it is the opinion of the Court or Judge, or the Clerk as the case may be, that such examination has been had unreasonably, vexatiously, or at unnecessary length, the costs occasioned by the examination shall be borne in whole or in part by the party in default. The Clerk may make such inquiry without any direction.

#### ADMISSIONS.

208. Any party to a cause or matter may give notice, by his pleading, or otherwise in writing, that he admits the truth of the whole or any part of the case of any other party. (E. 371.)

209. Either party may call upon the other party to admit any document, saving all just exceptions: and in case of refusal or neglect to admit, after such notice, the costs of proving any such document shall be paid by the party so neglecting or refusing, whatever the result of the cause or the matter may be, unless at the trial or hearing the Judge is satisfied that the refusal to admit was reasonable; and no costs of proving any document shall be allowed, unless such notice be given, except where the omissions to give the notice is, in the opinion of the Judge, a saving of expense. (E. 372.)

210. Any party may, by notice in writing, at any time, not later than twelve days before the day fixed for trial, call on any other party to admit, for the purposes of the cause, matter, or issue only, any specific fact or facts men-

tioned in such notice. And in case of refusal or neglect to admit the same within six days after service of such notice, or within such further time as may be allowed by a Judge, the cost of proving such fact or facts shall be paid by the party so neglecting or refusing, whatever the result of the cause, matter, or issue may be, unless at the trial or hearing the Judge is satisfied that the refusal to admit was reasonable; provided that any admission made in pursuance of such notice is to be deemed to be made only for the purposes of the particular cause, matter, or issue, and not as an admission to be used against the party on any other occasion, or in favor of any person other than the party giving the notice; provided also that the Judge may at any time allow any party to amend or withdraw any admission so made on such terms as may be just. (E. 374.)

211. Any party may at any stage of a cause or matter, where admissions of fact have been made, either on the pleadings or otherwise, apply to a Judge for such judgment or order as, upon such admissions, he may be entitled to, without waiting for the determination of any other question between the parties, and the Judge may, upon such application, make such order or give such judgment as the Judge may think just. (E. 376.)

212. An affidavit of the advocate or his clerk, of the due signature of any admissions made in pursuance of any notice to admit documents or facts, shall be sufficient evidence of such admissions, if evidence thereof be required. (E. 377.)

213. If a notice to admit, or produce, comprises documents which are not necessary, the costs occasioned thereby shall be borne by the party giving such notice. (E. 379.)

#### ISSUES, ENQUIRIES AND ACCOUNTS.

214. Where in any cause or matter it appears to the Court or Judge that the issues of fact in dispute are not sufficiently defined, the parties may be directed to prepare issues, and such issues shall, if the parties differ, be settled by the Court or Judge. (E. 381.)

215. The Judge may, either by the judgment or order

directing an account to be taken, or by any subsequent order, give special direction with regard to the mode in which the account is to be taken or vouched, and in particular may direct that in taking the account, the books of account, in which the accounts in question have been kept, shall be taken as *prima facie* evidence of the truth of the matters therein contained, with liberty to the parties interested to take such objections thereto as they may be advised. (E. 382.)

216. Where any account is directed to be taken, the accounting party, unless the Judge shall otherwise direct, shall make out his account and verify the same by affidavit. The items on each side shall be numbered consecutively, and the account shall be referred to by the affidavit as an exhibit, and be filed in Court. (E. 383.)

217. Any party seeking to charge any accounting party beyond what he has by his account admitted to have received, shall give notice thereof to the accounting party, stating, so far as he is able, the amount sought to be charged, and the particulars thereof, in a short and succinct manner. (E. 384.)

218. Every judgment or order for a particular account of the personal estate of a testator or intestate shall contain a direction for an enquiry what parts (if any) of such personal estate are outstanding or undisposed of, unless the Court or Judge shall otherwise direct. (E. 385.)

219. Where by any judgment or order, whether made in Court or by the Judge, any accounts are directed to be taken or inquiries to be made, each such direction shall be numbered, so that as far as may be, each distinct account and enquiry may be designated by a number, with such variations as the circumstances of the case may require. (E. 386.)

220. In taking any account, directed by any judgment or order, all just allowances shall be made without any direction for that purpose.

221. If it shall appear to the Judge that there is any un-

due delay in the prosecution of any accounts or enquiries, or in any other proceedings under any judgment or order, the Judge may require the party having the conduct of the proceedings under any judgment or order, or any other party, to explain the delay, and may thereupon make such order, with regard to expediting the proceedings, or the conduct thereof, or the stay thereof, and as to the costs of the proceedings as the circumstances of the case may require; and, for the purposes aforesaid, any party may be directed to summon the persons whose attendance is required, and to conduct any proceedings and carry out any directions which may be given; and any costs of such party so directed shall be paid by such parties, or out of such funds as the Judge may direct. (E. 388.)

222. When a judgment or order is given or made whether in Court or in Chambers directing an account of debts, claims or liabilities or an enquiry for heirs, next of kin or other unascertained persons, the Court or Judge as the case may be, may appoint a time within which all persons who do not come in and prove their claims shall be excluded from the benefit of the Judgment or Order. (E. 806 in part.)

223. The Court or Judge may thereupon direct that notice of the time so fixed shall be given by publishing an advertisement thereof in some newspaper or newspapers in the Territories as the Court or Judge may direct for such time as the Court or Judge may direct and unless otherwise directed no other notice thereof or service shall be necessary. (New.)

224. Such notice, if the Order is made by the Court, shall be signed by the Clerk as the officer of the Court; if made by a Judge, it shall be signed by him. (New.)

225. Upon such notice being duly published and such other notice given or published or served as the Court or Judge may direct, all persons who do not come in and prove their claims within the time so fixed shall be excluded from the benefit of the Judgment or Order. (E. 806 in part.)

226. All citations or notices issued by the Court or a Judge



in the exercise of Probate Jurisdiction may by Order of a Judge be published in such newspaper or newspapers published in the Territories as such Judge may direct and for such time as he may direct, and in that case no other notice or service thereof shall be necessary unless the Judge shall otherwise direct. (New.)

227. A Judge may on the application of any executor or administrator or of any trustees grant an order for creditors and others to send in to the executor, administrator or trustee, claims against the estate of the testator, intestate or the trust estate as the case may be, within such time as the Judge may fix, and notice of such order shall be published in such newspaper or newspapers published in the Territories as the Judge may direct and the executor or administrator on the same being so published may at the expiration of the time so fixed be at liberty to distribute the assets of the testator or intestate or any part thereof and the trustee may in like manner be at liberty to distribute the trust estate or any part thereof amongst the parties entitled thereto having regard to the claims of which such executor, administrator or trustee has then notice, and shall not be liable for the assets or any part thereof or the trust estate or any part thereof, as the case may be, so distributed to any person of whose claim such executor, administrator or trustee shall not have had notice at the time of the distribution of the said assets or trust estate or part thereof as the case may be, but nothing in this Ordinance shall prejudice the right of any creditor or claimant to follow the assets or trust estate or any part thereof into the hands of the person or persons who may have received the same respectively. (Imp. Stat. 22 and 23 Vic. C. 35 S. 29 in part and partly new.

#### SPECIAL CASE.

228. The parties to any cause or matter, at any stage of the cause or matter, or without any previous proceedings having been instituted, may concur in stating the questions of law arising therein in the form of a special case for the opinion of the Court. Every such special case shall be divided into paragraphs, numbered consecutively, and shall concisely state such facts and documents as may be neces-

sary to enable the Court to decide the questions raised thereby. Upon the argument of such case the Court, and the parties, shall be at liberty to refer to the whole contents of such documents, and the Court shall be at liberty to draw from the facts and documents, stated in any special case, any inference, whether of fact or Law, which might have been drawn therefrom if proved at a trial. (E. 389 and N. S. 332.)

229. If it appear to the Court or Judge that there is in any cause or matter a question of Law which it would be convenient to have decided before any evidence is given, or any question or issue of fact is tried, or before any reference is made to a Referee, the Court or Judge may make an order accordingly, and may direct such question of Law to be raised for the opinion of the Court, either by special case, or in any such other manner as the Court or Judge may deem expedient, and all such further proceedings as the decision of such question of Law may render unnecessary may thereupon be stayed. (E. 390.)

230. No special case in any cause or matter to which a married woman (not being a party thereto in respect of her separate property or of any separate right of action by or against her), infant, or person of unsound mind, not so found by judicial decision, is a party, shall be set down for argument without leave of the Court or Judge, the application for which must be supported by sufficient evidence that the statements contained in such special case, so far as the same affect the interest of such married woman, infant, or person of unsound mind, are true. (E. 392.)

231. The parties to a special case may, if they think fit, enter in an agreement in writing that, on the judgment of the Court being given in the affirmative or negative of the questions of Law raised by the special case, a sum of money, fixed by the parties or to be ascertained by the Court or in such manner as the Court may direct, shall be paid by one of the parties to the other of them, either with or without costs of the cause or matter; and the judgment of the Court may be entered for the sum so agreed or ascertained, with or without costs, as the case may be, and execution may issue upon such judgment in the ordinary way, unless otherwise agreed, or unless stayed in appeal. (E. 394.)

## PROCEEDINGS AT TRIAL.

232. If, when a trial is called on, the plaintiff appears, and the defendant does not appear, the plaintiff may prove his claim, so far as the burden of the proof lies upon him. (E. 455.)

233. If, when a trial is called on, the defendant appears, and the plaintiff does not appear, the defendant, if he has no counter-claim, shall be entitled to judgment dismissing the action, but if he has a counter claim, then he may prove such counter-claim so far as the burden of proof lies upon him. (E. 456.)

234. Any verdict or judgment obtained where one party does not appear at the trial may be set aside by the Court or Judge upon such terms as may seem fit, upon an application made within fifteen days after the trial. (E. 457.)

235. The Judge may, if he thinks it expedient for the interests of justice, postpone or adjourn a trial for such time, and to such place, and upon such terms, if any, as he shall think fit; but no trial shall be postponed upon the ground of the absence of a material witness, unless the affidavit upon which the application is made distinctly states that the deponent believes and is advised that the party in whose behalf the application is made has a just cause of action or defence upon the merits, and that the application is not made solely for delay. (E. 458 and N. S. 469.)

236. Where, through accident or mistake, or other cause, any party omits, or fails to prove some fact material to his case, the Judge may proceed with the trial, subject to such fact being afterwards proved, at such time and subject to such terms and conditions as to costs and otherwise as the Judge shall direct, and if the case is being tried by a jury, the Judge may direct the jury to find a verdict as if such fact had been proved, and the verdict shall take effect on such fact being afterwards proved as directed; and if not so proved, judgment shall be entered for the opposite party, unless the Court or Judge otherwise directs. This rule shall not apply to actions for libel or slander. (N.S. 368.)

237. Upon a trial with a jury, the addresses to the jury shall be regulated as follows; the party who begins, or his counsel, shall be allowed at the close of his case, if his opponent does not announce any intention to adduce evidence, to address the jury a second time, for the purpose of summing up the evidence, and the opposite party, or his counsel, shall be allowed to open his case, and also to sum up the evidence, if any, and the right to reply shall be the same as in England. (E.460.)

238. The Judge may in all cases disallow any questions put in cross-examination of any party or other witness which may appear to him to be vexatious, and not relevant to any matter proper to be enquired into in the cause or matter. (E. 462.)

239. The Judge may, at or after the trial, direct that judgment be entered for any or either party, or adjourn the case for further consideration, or leave any party to move for judgment. No judgment shall be entered after a trial without the order of the Court or Judge. (E.463.)

#### INQUIRY AND REFERENCE AS TO DAMAGES.

240. In every action or proceeding in which it shall appear to the Court or Judge that the amount of damages sought to be recovered is substantially a matter of calculation, the Court or Judge may either fix the amount or direct that the amount for which final judgment is to be entered shall be ascertained by an officer of the Court or other person, and the attendance of witnesses and the production of documents before such officer or other person, may be compelled by subpoena and such officer or other person may adjourn the inquiry from time to time, and shall indorse upon the order for referring the amount of damages to him the amount found by him, and shall deliver the order with such endorsement to the Clerk of the Court, and such and the like proceedings may thereupon be had as to taxation of costs, entering judgment and otherwise as in ordinary cases. (E. 481.)

241. Where damages are to be assessed in respect of any continuing cause of action, they shall be assessed down to the time of assessment. (E. 482.)



## EVIDENCE GENERALLY.

242. In the absence of any agreement in writing between the parties, or their advocates, and subject to the provisions of this Ordinance, the witnesses at the trial of any action, or at any assessment of damages shall be examined viva voce and in open court, but the Court or Judge may at any time for sufficient reason order that any particular fact or facts may be proved by affidavits, or that the affidavit of any witness may be read at the hearing or trial, on such conditions as the Court or Judge may think reasonable, or that any witness whose attendance in Court ought for some sufficient cause to be dispensed with, be examined by interrogatories or otherwise before a Commissioner or Examiner: provided that where it appears to the Court or Judge that the other party, *bona fide*, desires the production of a witness for cross-examination, and that such witness can be produced, an order shall not be made authorizing the evidence of such witness to be given by affidavit. (E. 483.)

242. An order to read evidence taken in another cause or matter shall not be necessary, but such evidence may, saving all just exceptions, be read by leave of the Court or Judge. (E. 485.)

243. Copies of all writs, records, pleadings, and documents filed in Court, when certified by the Clerk, shall be admissible in evidence in all causes and matters, and between all persons or parties, to the same extent as the original would be admissible. (E. 486.)

244. Impounded documents while in the custody of the Court are not to be parted with; and are not to be inspected, except on a written order signed by the Judge on whose order they were impounded; or in case of documents impounded on the order of the Court in banc by an order of that Court. Such documents shall not be delivered out of the custody of the Court except on an order made on motion in open Court.

## EXAMINATION OF WITNESSES.

245. The Court or Judge may, in any cause or matter,

when it shall appear necessary for the purposes of justice, make any order for the examination upon oath, *viva voce*, or by interrogatories in writing, before the Court or Judge or any officer of the Court, or any other person, and at any place of any witness or person, and may empower any party to any such cause or matter to give such deposition in evidence therein on such terms, if any, as the Court or Judge may direct. (E.487.)

246. The Court or Judge may in any cause or matter, at any stage of the proceedings, order the attendance of any person for the purpose of producing any writings or other documents named in the order which the Court or Judge may think fit to be produced; provided that no person shall be compelled to produce under any such order any writing or other document which he could not be compelled to produce at the hearing or trial. (E. 489.)

247. Any person wilfully disobeying any order requiring his attendance for the purpose of being examined or of producing any document, shall be deemed guilty of contempt of Court and may be dealt with accordingly. (E. 490.)

249. Any person required to attend for the purpose of being examined or of producing any document, shall be entitled to the like conduct money and payment for expenses and loss of time as upon attendance at a trial in Court. (E. 491.)

250. Where any witness or person is ordered to be examined before any officer of the Court, or before any person appointed for the purpose, the person taking the examination shall be furnished by the party on whose application the order was made, with a copy of the proceedings in the cause, or with a copy of the documents necessary to inform the person taking the examination of the questions at issue between the parties. (E. 492.)

251. The examination shall take place in the presence of the parties, their counsel, advocate or agent, and the witnesses shall be subject to cross-examination and re-examination. (E. 493.)

252. The depositions taken before an officer of the Court, or before any other person appointed to take the examination, shall be taken down in writing by or in the presence of the examiner, not ordinarily by question and answer, but so as to represent as nearly as may be the statement of the witness, and when completed shall be read over to the witness and signed by him in the presence of the parties, of such of them as may think fit to attend. If the witness shall refuse to sign the depositions the examiner shall sign the same. The examiner may put down any particular question or answer if there should appear any special reason for doing so, and may put any question to the witness as to the meaning of any answer, or as to any matter arising in the course of the examination. Any questions which may be objected to shall be taken down by the examiner in the depositions, and he shall state his opinion thereon to the advocates, or parties, and shall refer to such statement in the depositions, but he shall not have the power to decide upon the materiality or relevancy of any question. (E. 494.)

253. If any person duly summoned by subpoena to attend for examination shall refuse to attend, or if, having attended he shall refuse to be sworn or to answer any lawful question, a certificate of such refusal, signed by the examiner, shall be filed in Court, and thereupon the party requiring the attendance of the witness may apply to the Court or Judge *ex parte*, or on notice, for an order directing the witness to attend, or to be sworn, or to answer any question as the case may be. (E. 495.)

254. If it shall be made to appear to the Judge that a witness has been duly served with a subpoena, and his fees for travel and attendance paid or tendered to him, and that such witness refuses or neglects to attend to give evidence as required by his subpoena, and that his evidence is necessary and material, it shall be lawful for the Judge in addition to any powers which he may possess for the punishment of such witness, to issue a warrant under his hand and seal, directed to any Sheriff or other officer or officers for the immediate arrest of such witness, to be brought before the Court, or person authorized to hear the evidence for the purpose of giving evidence in the cause. (S. N. 389.)

255. If any witness shall object to any question which may be put to him before an examiner, the question so put, and the objection of the witness thereto, shall be taken down by the examiner, and transmitted by him to the Court, to be there filed, and the validity of the objection shall be decided by the Court or Judge. (E. 496.)

256. In any case under the three last preceding Sections of this Ordinance, the Court or Judge shall have power to order the witness to pay any costs occasioned by his refusal or objection. (E. 497.)

257. When the examination of any witness before any examiner shall have been concluded, the original depositions, authenticated by the signature of the examiner, shall be returned by him to the Clerk of the Court, to whom the same is returnable, and by him shall be filed. (E. 498.)

258. The person taking the examination of a witness under the provision of this Ordinance may, and if need be, shall make a special report to the Court, touching such examination and the conduct or absence of any witness or other person thereon, and the Court or Judge may direct such proceedings and make such order as upon the report they or he may think just. (E. 499.)

259. Except where by this Ordinance it is otherwise provided or may be directed by the Court or Judge, no deposition shall be given in evidence at the hearing or trial of the cause or matter without the consent of the party against whom the same may be offered, unless the Court or Judge is satisfied that the deponent is dead, or beyond the jurisdiction of the Court, or unable from sickness or other infirmity to attend the hearing or trial, in any of which cases the depositions, certified under the hand of the person taking the examination, shall be admissible in evidence saving all just exceptions without proof of the signature to such certificate. (E. 500.)

260. Any officer of the Court, or other person directed to take the examination of any witness or person, may administer oaths. (E. 501.)



261. Any party in any cause or matter may by subpoena *ad testificandum*, or *duces tecum* require the attendance of any witness before an officer of the Court or other person appointed to take the examination, for the purpose of using his evidence upon any proceeding in the cause or matter, in like manner as such witness would be bound to attend and be examined at the hearing or trial; and any party or witness having made an affidavit to be used, or which shall be used, on any proceeding in the cause or matter shall be bound on being served with such subpoena to attend before such officer or person for cross-examination. (E. 502.)

262. Evidence taken subsequently to the hearing or trial of any cause or matter, shall be taken as nearly as may be, in the same manner as evidence taken at or with a view to a trial. (E. 503.)

263. The practice with reference to the examination, cross-examination, and re-examination of witnesses at a trial, shall extend and be applicable to evidence taken in any cause or matter at any stage. (504.)

264. The practice of the Court with respect to evidence at a trial, when applied to evidence to be taken before an officer of the Court or other person, in any cause or matter after the hearing or trial, shall be subject to any special directions which may be given in any case. (E. 505.)

265. No affidavit or deposition filed or made before issue joined in any cause or matter shall, without special leave of the Court or Judge, be received at the hearing or trial thereof, unless within one month after the cause is at issue, or within such longer time as may be allowed by special leave of the Court or a Judge, notice in writing shall have been given by the party intending to use the same to the opposite party of his intention in that behalf. (E. 506.)

266. All evidence taken at the hearing or trial of any cause or matter may be used in any subsequent proceedings in the same cause or matter. (E. 507.)

#### SUBPOENA.

267. When a subpoena is required for the attendance of

a witness for the purpose of proceedings in Chambers, such subpoena shall issue from the Clerk's office upon a note from the Judge. (E. 510.)

268. The service of a subpoena shall be effected by delivering a copy of the writ, and of the endorsement thereon, and at the same time producing the original writ. (E. 514.)

#### PERPETUATING TESTIMONY.

269. Any person who shall, under the circumstances alleged by him to exist, become entitled upon the happening of any future event to any office, or to any estate or interest in any property, real or personal, the right or claim to which cannot by him be brought to trial before the happening of such event, may commence an action to perpetuate any testimony which may be material for establishing such right or claim. (E. 517.)

270. Witnesses shall not be examined to perpetuate testimony unless an action has been commenced for the purpose. (E. 519.)

271. No action to perpetuate the testimony of witnesses shall be set down for trial.

#### FOREIGN JUDGMENT.

272. The record, or other evidence of a judgment recovered outside the North-West Territories against any person domiciled in the said Territories, shall be *prima facie* evidence in any action brought on such judgment.

#### AFFIDAVITS AND DEPOSITIONS.

273. Upon any motion, petition or summons, evidence may be given by affidavit; but the Court or Judge may, on the application of either party, order the attendance for cross-examination of the persons making any such affidavit and may make such interim order or otherwise, as appears necessary to meet the justice of the case. (E. 512 and N. S. 429.)

274. Every affidavit shall be intituled in the cause or

matter in which it is sworn; but in every case in which there is more than one plaintiff or defendant, it shall be sufficient to state the full name of the first plaintiff or defendant respectively, and that there are other plaintiffs or defendants, as the case may be; and the costs occasioned by any unnecessary prolixity in any such title shall be disallowed. (E. 522.)

275. Affidavits shall be confined to such facts as the witness is able of his own knowledge to prove, except on interlocutory motions, on which statements as to his belief, with the grounds thereof, may be admitted. The costs of affidavit which shall unnecessarily set forth matters of hearsay, or argumentative matter, or copies of or extracts from documents shall be paid by the party filing the same. (E. 523.)

276. Affidavits sworn in the North-West Territories shall be sworn before a Judge, Clerk of the Court, or Deputy Clerk, Notary Public, Justice of the Peace, or Commissioner empowered to administer oaths. (E. 524.)

277. Every person administering oaths shall express the time when and the place where he shall take any affidavit or recognizance: otherwise the same shall not be held authentic nor be admitted to be filed without the leave of the Court or Judge. (E. 525.)

278. All examinations, affidavits, declarations, affirmations, and attestations in causes or matters depending in the Supreme Court, may be sworn and taken out of the North-West Territories in any part of the Dominion of Canada or in Great Britain or Ireland, or the Channel Islands, or in any Colony, Island or Plantation, or place under the Dominion of Her Majesty in foreign parts, before any Judge, Court, Notary Public, or person lawfully authorized to administer oaths in such Country, Colony, Island, Plantation, or place respectively, or before any of her Majesty's Consuls or Vice-Consuls in any foreign part out of Her Majesty's Dominions or before a Judge of a Court of Record or a Notary Public under his hand and seal, or before a Commissioner appointed for the purpose of taking affidavits outside of the North-West Territories to be used within said Territories, or a Commissioner duly ap-

pointed by the Judge for such purpose, and the Judges and other Officers of the Supreme Court shall take judicial notice of the seal or signature, as the case may be, of any such Court, Judge, Notary Public, Person, Consul or Vice-Consul, attached, appended, or subscribed to any such examinations, affidavits, affirmations, attestations, and declarations. (E. 526.)

279. Every affidavit shall be drawn up in the first person and shall be divided into paragraphs, and every paragraph shall be numbered consecutively, and as nearly as may be, shall be confined to a distinct portion of the subject. No costs shall be allowed for any affidavit or part of an affidavit substantially departing from this rule. (E. 527.)

280. Every affidavit shall state the description and true place of abode of the deponent, and shall be signed by him. (E. 528.)

281. In every affidavit made by two or more deponents the names of the several persons making the affidavit shall be inserted in the jurat, except that if the affidavit of all the deponents is taken at one time by the same officer, it shall be sufficient to state that it was sworn by both (or all) of the "above-named" deponents. (E. 529.)

282. Every affidavit or other proof used in a cause, matter or proceeding shall be filed. (E. 530.)

283. The Court or Judge may order to be struck out from any affidavit any matter which is scandalous, and may order the costs of any application to strike out such matter to be paid by the offending party. (E. 531.)

284. No affidavit, having in the jurat or body thereof any interlineation, alteration, or erasure, shall, without leave of the Court or Judge, be read or made use of in any matter depending in Court, unless the interlineation or alteration (other than by erasure) is authenticated by the initials of the officer taking the affidavit, nor in the case of an erasure, unless the words or figures appearing at the time of taking the affidavit to be written on the erasure are written and signed or initialed in the margin of the affidavit by the officer taking it. (E. 532.)



285. Where an affidavit is sworn by any person who appears to the officer taking the affidavit to be illiterate or blind, the officer shall certify in the jurat that the affidavit was read in his presence to the deponent, that the deponent seemed perfectly to understand it, and that the deponent made his signature or mark in the presence of the officer. No such affidavit shall be used in evidence in the absence of this certificate unless the Court or Judge is otherwise satisfied that the affidavit was read over to and appeared to be perfectly understood by the deponent. (E. 533.)

286. The Court or Judge may receive any affidavit sworn for the purpose of being used in any cause or matter, notwithstanding any defect by misdescription of parties, or otherwise, in the title or jurat, or any other irregularity in the form thereof, and may direct a memorandum to be made on the document that it has been so received. (E. 534.)

287. A copy of an affidavit may in all cases be used, the original affidavit having been previously filed, and the copy duly authenticated with the certificate of the Clerk, with seal of the Court. (E. 535.)

288. No affidavit shall be sufficient if sworn before the advocate acting for the party, on whose behalf the affidavit is to be used, or before any agent of such advocate or before the party himself. (E. 536.)

289. Any affidavit, which would be insufficient if sworn before the advocate himself, shall be insufficient if sworn before his clerk or partner. (E. 537.)

290. Where a special time is limited for filing affidavits, no affidavit filed after that time shall be used unless by leave of the Court or Judge. On motions founded on affidavits either party may, by leave of the Court or Judge, make affidavits in answer to the affidavits of the opposite party, as to new matter arising out of such affidavits. (E. 538 and N. S. 446.)

291. Except by leave of the Court or Judge, no order

made *ex parte* in Court, founded on any affidavit, shall be of any force, unless the affidavit, on which the application was made, was actually made before the order was applied for and produced or filed, at the time of making the motion. (E. 539.)

292. The party intending to use any affidavit in support of any application, made by him in Chambers, shall give notice to the other parties concerned, of his intention in that behalf. (E. 540.)

293. All affidavits which have been previously made and read in Court upon any proceedings in a cause or matter, may be used before a Judge in Chambers. (E. 541.)

294. Affidavits of service upon any party must state when, where and how and by whom such service was effected. (E. 515.)

295. Every alteration in an account verified by affidavit shall be marked with the initials of the commissioner or officer before whom the affidavit is sworn, and such alterations shall not be made by erasure. (E. 542.)

296. Accounts, extracts, and other documents, referred to by affidavit, shall not be annexed to the affidavit, or referred to in the affidavit, as annexed, but shall be referred as exhibits (E. 543.)

297. Every certificate on an exhibit referred to in an affidavit, signed by the commissioner, or officer, before whom the affidavit is sworn, shall be marked with the short title of the cause or matter. (E. 544.)

#### MOTION FOR JUDGMENT.

298. Except where by this Ordinance it is provided that judgment may be obtained in any other manner, the judgment of the Court shall be obtained by motion for judgment. (E. 559.)

299. Where, at, or after a trial with a jury, the Judge has directed that any judgment be entered, any party may

apply to set aside such judgment, and enter any other judgment, on the ground that the judgment directed to be entered is wrong, by reason that the finding of the jury upon the questions submitted to them has not been properly entered. (E. 561.)

300. Where, at, or after a trial by a Judge, either with or without a jury, the Judge has directed that any judgment be entered, any party may apply to set aside such judgment and to enter any other judgment, upon the ground that, upon the finding as entered, the judgment so directed is wrong. (E. 562.)

301. An application under the two next preceding Sections shall be to the Court in banc. (E. 563.)

302. When issues have been ordered to be tried, or issues or questions of fact to be determined in any manner, the plaintiff may set down a motion for judgment as soon as such issues or questions have been determined. If he does not set down such a motion, and give notice thereof to the other parties within ten days after his right so to do has arisen, then after the expiration of such ten days any defendant may set down a motion for judgment, and give notice thereof to the other parties. (E. 565.)

303. When issues have been ordered to be tried, or issues or questions of fact to be determined in any manner, and some only of such issues or questions of fact have been tried or determined, any party who considers that the result of such trial or determination renders the trial or determination of the others of them unnecessary, or renders it desirable that the trial or determination thereof should be postponed may apply to the Court or Judge for leave to set down a motion for judgment, without waiting for such trial or determination. And the Court or Judge may, if satisfied of the expediency thereof, give such leave, upon such terms, if any as shall appear just, and may give any directions which may appear desirable as to postponing the trial of the other issues of fact. (E. 566.)

304. No motion for judgment shall, except by leave of the Court or Judge, be set down after the expiration of one

year from the time when the party seeking to set down the same first became entitled so to do. (E 567.)

305. Upon a motion for judgment, or upon an application for a new trial, the Court may draw all inferences of fact not inconsistent with the finding of the jury, and if satisfied that it has before it all the materials necessary for finally determining the question in dispute, or any of them, or for awarding any relief sought, give judgment accordingly, or may, if it shall be of opinion that it has not sufficient materials before it to enable it to give judgment, direct the motion to stand over for further consideration, and direct such issues or questions to be tried or determined, and such accounts and inquiries to be taken and made, as it may think fit. (E. 568.)

306. When it is made to appear to the Court or Judge on the hearing of any application, which may be pending before the Court or Judge, that it will be conducive to the end of justice to permit it, the Court or Judge may direct any applications to be turned into a motion for judgment, or hearing of the cause or matter; and thereupon the Court or Judge may make such order as to the time and manner of giving the evidence in the cause and matter, and with respect to the further prosecution thereof as the circumstances of the case may require: and upon the hearing it shall be discretionary with the Court or Judge to either pronounce a judgment or make such order as the Court or Judge deems expedient. [N. S. 477.]

307. Where, at any time after the writ of summons has been issued, it is made to appear to the Court or Judge on an *ex parte* application that it will be conducive to the ends of justice to permit a notice of motion for a judgment to be forthwith served, the Court or Judge may order the same accordingly, and when such permission is granted, the Court or Judge is to give directions, as to the service of the notice of motion and filing of the affidavits, as may be expedient. Upon the hearing of such motion the Court or Judge, instead of either granting or refusing the application, may give such directions for the examination of either parties or witnesses, or for the making of further enquiries, or with respect to the further prosecution of the suit, as the circumstances of the case may require, and upon



such terms as to costs, as the Court or Judge think right. (N.S. 478.)

#### JUDGMENT AND ENTRY OF JUDGMENT.

308. When any judgment is pronounced by the Court or Judge, the entry of judgment shall be dated as of the day on which such judgment is pronounced, unless the Court or Judge shall otherwise order, and the judgment shall take effect from that date; provided that by special leave of the Court or Judge, a judgment may be ante-dated or post-dated. (E. 571.)

309. Any Judge may deliver the judgment of the Court, when authorized to do so by the Judges in Banc, who heard the matter on which judgment is to be pronounced, or may deliver the judgment of any other Judge, when authorized so to do by such other Judge, notwithstanding the absence of the Judges or Judge aforesaid. (N.S. 482.)

310. In all cases not within the ~~last preceding Section~~ *Section 308 of this Ord.* the entry of judgment shall be dated as of the day on which the requisite documents are left with proper officer for the purpose of such entry, and the judgment shall take effect from that date. (E 572.)

311. Every judgment or order made in any cause or matter requiring any person to do an act thereby ordered shall state the time or the time after service of the judgment or order, within which the act is to be done, and upon the copy of the judgment or order, which shall be served upon the person required to obey the same, there shall be endorsed a memorandum in the words or to the effect following, viz :

“If you, the within named A.B., neglect to obey this judgment (or order) by the time therein limited, you will be liable to process of execution for the purpose of compelling you to obey the same judgment (or order).” (E. 573.)

312. Where, under this Ordinance, or otherwise, it is provided that any judgment may be entered upon the filing of any affidavit or production of any document, the Clerk

shall examine the affidavit or document produced, and if the same be regular and contain all that is by Law required he shall enter judgment accordingly. (E. 574.)

313. When by this Ordinance or otherwise, any judgment may be entered pursuant to any order or certificate, or return to any writ, the production of such order, certificate or return, shall be sufficient authority to the officer to enter judgment accordingly. (E. 575.)

314. In any cause or matter where the defendant has appeared by advocate, no order for entering judgment shall be made by consent, unless the consent of the defendant is given by his advocate or agent. (E. 577.)

315. When the defendant has not appeared, or has appeared in person, no such order shall be made unless the defendant attends before a Judge and gives his consent in person, or unless his written consent is attested by an advocate acting on his behalf. (E. 578.)

316. Satisfaction of a judgment shall be signed by the plaintiff, and his personal representatives, or by an advocate specially authorized for that purpose in writing, unless the Judge, on special circumstances set forth by affidavit, dispense with such authorization. (N. S. 489.)

#### EXECUTION.

317. Where any person is by any order directed to pay any money, or deliver up or transfer any property, real or personal, to another, it shall not be necessary to make any demand thereof, but the person so directed shall be bound to obey such order, upon being duly served with a copy of the same without demand. (E. 579.)

318. Where any person, who has obtained any judgment or order upon condition, does not perform or comply with such condition, he shall be considered to have waived or abandoned such judgment or order, so far as the same is beneficial to himself and any other person interested in the matter may, on breach or non-performance of the condition, take either such proceedings as the judgment or order may

in such case warrant, or such proceedings, as might have been taken, if no such judgment or order had been made, unless the Court or Judge shall otherwise direct. (E. 580.)

319. Every person to whom any sum of money or any costs shall be payable under a judgment or order so soon as the money or costs shall be payable, be entitled to sue out one or more writ or writs of *fiery facias* ~~or one or more writ or writs of *elegit*~~ to enforce payment thereon subject nevertheless as follows:

(a) If the judgment or order is for payment within a period therein mentioned, no such writ as aforesaid shall be issued until after the expiration of such period.

(b) The Court or a Judge may, at or after the time of giving judgment or making an order, stay execution until such time as they or he shall think fit. (E. 595.)

320. A judgment for the recovery or for the delivery or the possession of land, may be enforced by writ of possession. (E. 583.)

321. A judgment for the recovery of any property, other than land or money, may be enforced by writ for delivery of the property. (E. 584.)

322. A judgment requiring any person to do any act other than the payment of money or to abstain from doing anything, may be enforced by writ of committal. (E. 585.)

323. Where a judgment or order is to the effect that any party is entitled to any relief subject to or upon the fulfilment of any condition or contingency, the party so entitled may, upon the fulfilment of the condition or contingency, and demand made upon the party against whom he is entitled to relief, apply to the Judge for leave to issue execution against such party. And the Judge may, if satisfied that the right to relief has arisen according to the terms of the judgment or order, order that execution issue accordingly, or may direct that any issue or question necessary for the determination of the rights of the parties be tried in any of the ways in which questions arising in any action may be tried. (E. 587.)

324. Where a judgment or order is against a firm, execution may issue :—

(1) Against any property of the partnership ;

(2) Against any person, who has appeared in his own name or who has admitted on the pleadings that he is or who has been adjudged to be a partner ;

(3) Against any person, who has been served as a partner, with a writ of summons and has failed to appear.

If the party who has obtained judgment, or an order, claims to be entitled to issue execution against any other person as being a member of the firm, he may apply to a Judge for leave so to do ; and a Judge may give such leave, if the liability be not disputed, or if such liability be disputed, may order that the liability of such person be tried and determined in any manner in which any issue or question in an action may be tried and determined. But except as against any property of the partnership, a judgment against a firm shall not render liable, release or otherwise affect any member thereof who was out of the jurisdiction when the writ was issued, and who has not appeared to the writ unless he has been made a party to the action or has been served with the writ in the action.

325. No writ of execution shall be issued without the party issuing it, or his advocate, filing a precipe for that purpose ; the precipe shall contain the title of the action, the reference to the record, the date of the judgment, and of the order, if any, directing the execution to be issued, the names of the parties against whom, or of the firm against whose goods the execution is to be issued ; and shall be signed by or on behalf of the advocate of the party issuing it, or by the party issuing it, if he does so in person. (E. 590.)

326. When entitled thereto, the party, in whose favor such judgment has been entered, may have one or more writs of execution, directed to the Sheriff of any one of the Judicial Districts of the North-West Territories, for levying within the Judicial District named in such writ the amount



due on such judgment, and legal interest thereon, and costs subsequent to such judgment, by distress and sale of the goods and chattels and personal property liable to seizure and sale for debt, of the party against whom the said judgment has been so entered.

327. Every writ of execution shall bear date the day of its issue, and shall remain in force for ~~one year~~<sup>two years</sup> from its date (and no longer if unexecuted unless renewed), but such writ may, at any time before its expiration, and so from time to time during the continuance of the renewed writ, be renewed by the party issuing it for ~~one year~~<sup>two years</sup> from the date of such renewal by being marked in the margin with a memorandum to the effect following: 'Renewed for ~~one year~~<sup>two years</sup> ~~year~~ from the            day of            A.D. 18            ;' (signed by the Clerk); and the production of a writ of execution marked as renewed in manner aforesaid shall be sufficient evidence of its having been so renewed; and a writ of execution so renewed shall have effect, and be entitled to priority, according to the time of the original delivery thereof.

328. Every writ of execution for the recovery of money shall be indorsed with a direction to the Sheriff, or other officer or person to whom the writ is directed, to levy the money really due and payable, and sought to be recovered under the judgment or order, stating the amount, and also to levy legal interest thereon, if sought to be recovered, together with Sheriff's fees, poundage and other expenses of execution. (E. 594.)

329. As between the original parties to a judgment or order, execution may issue at any time within six years from the recovery of the judgment or the date of the order. (E. 600.)

330. In the following cases, viz.:

(1) Where six years have elapsed since the judgment or date of the order, or any change has taken place by death, or otherwise, in the parties entitled or liable to execution:

(2) Where a husband is entitled or liable to execution upon a judgment or order for, or against a wife;

(3) Where a party is entitled to execution upon a judgment of assets in futuro ;

(4) Where a party is entitled to execution against any of the shareholders of a joint stock company upon a judgment recorded against such company, or against a public officer or other person representing such company, the party alleging himself to be entitled to the execution may apply to the Judge for leave to issue execution accordingly. And such Judge may, if satisfied that the party so applying is entitled to issue execution, make an order to that effect, or may order that any issue or question necessary to determine the rights of the parties shall be tried in any other ways in which any question in any action may be tried. And in either case such Judge may impose such terms as to costs or otherwise as shall be just. (E. 601.)

331. Every order of the Court or Judge in any cause or matter may be enforced against all persons bound thereby in the same manner as a judgment to the same effect. (E. 602.)

332. Any person not being a party to a cause or matter who obtains any order, or in whose favor any order is made, shall be entitled to enforce obedience to such order by the same process as if he were a party to such cause or matter, and any person not being a party to a cause or matter, against whom obedience to any judgment or order may be enforced, shall be liable to the same process for enforcing obedience to such judgment or order, as if he were a party to such cause or matter. (E. 604.)

333. Any party against whom a judgment has been given may apply to the Judge for a stay of execution or other relief against such judgment, upon the ground of facts which have arisen too late to be pleaded, and the Judge may give such relief and upon such terms as may be just. (E. 605.)

334. If a mandamus, granted in an action or otherwise, or a mandatory order, injunction or judgment for the specific performance of any contract be not complied with, the Court or Judge, besides or instead of proceedings against

the disobedient party for contempt, may direct that the act required to be done may be done so far as practicable by the party by whom the judgment or order has been obtained, or some other person appointed by the Court or Judge, at the cost of the disobedient party, and upon the act being done, the expenses incurred may be ascertained in such manner as the Court or Judge may direct, and execution may issue for the amount so ascertained, and costs. (E 608.)

335. Any judgment or order against a corporation wilfully disobeyed may, by leave of the Court or Judge, be enforced by execution against the corporate property or by attachment of the persons of the directors or other officers thereof. (E. 609.)

336. Writs of execution shall follow the form in the Appendix to this Ordinance, adapted to the circumstances of each case.

337. Except as hereinafter mentioned every writ of execution against goods and chattels shall, at and from the time of its delivery to the sheriff to be executed, bind all the goods and chattels or any interest in all the goods and chattels of the judgment debtor within the judicial district of the said Sheriff and shall take priority to any chattel mortgage, bill of sale, or assignment for the benefit of all or any of the creditors of the judgment debtor executed by him after the receipt by the sheriff of such writ of execution or which, by virtue of the provisions of The Bills of Sale Ordinance has not taken effect prior to such receipt as against the creditor or creditors' interest under the execution, but shall not take priority to a bona fide sale by the judgment debtor followed by an actual and continued change of possession of any of his goods and chattels without actual notice to the purchaser that such writ is in the hands of the Sheriff of the judicial district

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of ten days, as hereinbefore provided, the same may be sold forthwith.

339. On any writ of execution against goods and chattels, the Sheriff charged with the execution of the same may seize and sell the interest or equity of redemption, in any goods or chattels, including leasehold interests in any lands of the party against whom the writ has issued, and such sale shall convey whatever interest the mortgagor had in such goods and chattels at the time of the seizure.

340. In cases where registered mortgages upon lands or chattels are seized by the Sheriff, such seizure shall have no effect until a notice thereof in writing, signed by the officer charged with the execution of such writ, has been deposited in the office where the same is registered, and an entry of every such notice, when delivered, shall be made in the proper books; for which service, in each instance, a fee of fifty cents shall be payable to the registering officer.

341. The Sheriff having the execution of any writ of execution against goods may seize any money or bank notes, any cheques, bills of exchange, promissory notes, bonds, mortgages, specialities or other securities for money belonging to the person against whose effects he has issued, and such Sheriff may pay and assign them to the execution creditor at the sum actually due on and secured by them respectively if he will accept them, as money collected, or sue in his own name for the recovery of the sums secured thereby when the time of payment thereof has arrived, and on payment execute and give valid discharges therefor; but no such Sheriff or other party shall be bound to sue any party liable upon any such cheque, bill of exchange, promissory note, bond, speciality or other security, unless the party who sued out the execution furnishes sufficient security to indemnify him from all costs and expenses to be incurred in the prosecution of the action or to which he may become liable in consequence thereof.

342. The transference by the Sheriff to the execution creditor of any cheques or personal property named in the next preceding Section shall discharge the Sheriff to the



extent of the amount due on and secured thereby on the said writ.

343. The Sheriff shall pay over to the execution creditor or his advocate all moneys so recovered or a sufficient sum to discharge the amount directed by the writ to be levied less his fees and expenses.

344. No sale of growing crops, whether grain or roots, shall take place until after the same have been harvested and threshed, or taken and removed from the ground, when after all charges for harvesting, threshing, taking and removing, have been paid and all exemptions been claimed and reserved, the balance may be subject to be sold.

345. Any person who becomes entitled to issue a writ of execution against goods may, at or after the time of issuing the same, issue a writ of execution against the lands of the person liable, into any Judicial District provided that not less than fifty dollars remain due and unpaid on the judgment, and deliver the same to the Sheriff of the district named in the writ and charged with the execution of the writ of execution against goods at or after the time of delivery to him of the writ against goods, and either before or after any return thereof; but such officer shall not sell the said lands within less than one year from the day on which the writ against the lands is delivered to him, nor until three months notice of such sale has been posted in a conspicuous place in the Sheriff's and Clerk's office, respectively and published two months in the newspaper nearest the lands to be sold.

(1) Where more than one newspaper is published in the same locality, the notice of sale may be published in either one.

346. No sale shall be had under any execution against lands until after a return of *nulla bona* in whole or in part, with respect to an execution against goods in the same suit or matter by the same officer. Where there are no bidders or no sufficient bid has been offered for the land to be sold as aforesaid the She-

riff may adjourn such sale from time to time and a notice of the time and place of such adjourned sale shall be posted by him in a conspicuous place in the Sheriff's and Clerk's offices respectively and such notice shall be sufficient notice of such adjourned sale.

347. In cases where the Sheriff or other officer shall sell lands under execution for which a certificate of title has not been granted a transfer executed by him in the form prescribed for lands for which a certificate of title has been granted shall be sufficient to convey the execution debtor's interest therein to the purchaser.

348. No Sheriff shall make any return of *nulla bona*, either in whole or in part, to any writ against goods, until the whole of the goods of the execution debtor in the district, named in the writ, liable to seizure which he can find have been exhausted.

349. If the amount authorized to be made and levied under the writ against goods is made and levied thereunder, the person issuing the writ against lands shall not be entitled to the expenses thereof or of any seizure or advertisement thereunder, and the return to be made by the officer charged with the execution of the writ against lands to such writ, shall be to the effect that the amount has been so made and levied as aforesaid.

350. A written order, signed by the advocate by whom any writ of execution or other process as aforesaid shall have been issued, or by the party at whose instance the same issued, shall justify the Sheriff paying out money realized under execution: but the order of the advocate shall not suffice for that purpose, where the party for whom the advocate professes to act has given to the Sheriff written notice to the contrary.

351. Where under any writ of execution while in force personal property has been seized, the Sheriff may proceed to sell the same although the writ of execution has expired.

352. Where it is sought to enforce a judgment made for the recovery of any property other than land or money,

the Court or Judge may, upon the application of the plaintiff or person entitled thereto, order that execution shall issue for the delivery of the property without giving the defendant or other party the option of retaining the property and paying the assessed value, if any ; or at the option of the plaintiff or person entitled thereto that the Sheriff levy and make the assessed value with or without costs in either instance, as may be just, and for such purpose separate writs may be issued for the costs. (E.647.)

353. A judgment or order that a party do recover possession of any land, or that any person therein named do deliver up possession of any lands to some other person, the person prosecuting such judgment or order may without any order for such purpose after fifteen days from the entry of the judgment, or service of a copy of the order, enforce the same by a writ of possession. (E. 644 and 645.)

354. Upon any judgment or order for the recovery or delivery of possession of any land and costs, there may be either one writ or separate writs of execution for the recovery of possession and for the costs at the election of the successful party. (E. 646.)

355. Upon any execution against the lands or goods, the Sheriff may, in addition to the sum recovered by the judgment, levy the poundage fees, expenses of the execution, and interest upon the amount so recovered from the time of entering the judgment.

356. In case a part only is levied by the Sheriff on, or by force of any execution against goods and chattels, the Sheriff shall be entitled, besides his fees and expenses of execution, to poundage only upon the amount so made by him, whatever be the sum endorsed upon the writ, and in case the personal estate of the defendant is seized or advertised on or under an execution, but not sold by reason of satisfaction having been otherwise obtained, or from some other cause, and no money is actually made by the Sheriff on or by force of such execution, the Sheriff shall be entitled to the fees and expenses of execution and poundage only on the value of the property seized not exceeding the amount endorsed on the writ, or such less sum as a Judge of the

Court, out of which the writ issued, may deem reasonable under the circumstances of the case.

357. In the case of writs of execution upon the same judgment to several Judicial-Districts, wherein the personal estate of the judgment debtor or debtors has been seized or advertised but not sold, by reason of satisfaction having been obtained under or by virtue of a writ in some other Judicial District, and no money has been actually made on such execution, the Sheriff shall not be entitled to poundage, but to mileage and fees only for the services actually rendered and performed by him, and the Court or any Judge thereof may allow him a reasonable charge for such services, in case no special fees therefor is assigned in any table of costs.

358. In case any person liable on any execution is dissatisfied as to the amount of poundage fees and expenses of execution that any Sheriff claims under the tariff of fees and allowances in force, he may, before or after payment thereof, apply to the Judge of the Supreme Court, and if upon a statement of the whole facts, the Judge, after notice to the Sheriff, is of opinion that such amount is unreasonable, notwithstanding that it is according to the tariff, or this Ordinance, the same shall be reduced or ordered to be refunded upon such terms as to costs, or otherwise, as the Judge may think fit to impose.

359. Upon the settlement of an execution, either in whole or in part by payment, levy or otherwise, the Sheriff or officer claiming any fees, poundage, incidental expenses or remuneration, which have not been taxed, shall, upon being required by either plaintiff or defendant, or the advocate of either party, and on payment or tender of the expenses of such taxation; and the further sum of twenty-five cents for the copy of ~~this bill detail~~ <sup>his bill in detail</sup> (which he shall be bound to render) have his fees, poundage, incidental expenses or remuneration, as the case may be, taxed by the Clerk of the Supreme Court of the Judicial District wherein such Sheriff keeps his office.

360. No Sheriff shall collect any fees, costs, poundage or incidental expenses, after having been required to have the



same taxed, without taxation; and upon tender of the amount taxed, no fees, costs, poundage or incidental expenses in respect of proceedings subsequently taken shall be allowed to any Sheriff.

361. It shall be the duty of every taxing officer above referred to, to tax the bills of costs presented to him for taxation, as herein required, upon payment or tender of his fees, and to give, when requested, a certificate of such taxation and the amount thereof.

362. It shall be the duty of every taxing officer aforesaid upon proof of notice of the time and place of such taxation having been served upon the Sheriff, Deputy Sheriff, or other officer charged with the execution of the writ, to examine the bills presented to him for taxation, as herein required, whether such taxation is opposed or not, and to be satisfied that the items charged in such bills are correct and legal, and to strike out all charges for services which, in his opinion, were not necessary to be performed.

363. Either party dissatisfied with the taxation may appeal to a Judge of the Supreme Court, in which the proceedings are taken, for a revision of such taxation.

#### DISCOVERY IN AID OF EXECUTIONS.

364. When a judgment or order is for the recovery or payment of money, the party entitled to enforce it may apply to a Judge *ex parte* for an order that the debtor, liable under such judgment or order, or, in the case of a corporation, that any officer thereof, be orally examined, as to whether any and what debts are owing to the debtor, and whether the debtor has any and what property or means of satisfying the judgment or order, before the Judge or whom he may appoint; and the Judge may make an order for the attendance and examination of such debtor, or of any other person, and for the production of any books or documents. (E. 610.)

(a) Where judgment has been obtained as aforesaid, the Court or a Judge may, on the application of the party entitled to enforce the judgment, order any clerk or employee

or former clerk or employée of the judgment debtor, or any person or officer or officers of any corporation to whom the debtor has made a transfer of his property or effects since the date when the liability or debt which was the subject of the action in which judgment was obtained was incurred, to attend before the Clerk of the Court or other person to be named in the order and to submit to be examined upon oath as to the estate and effects of the debtor and as to the property and means he had when the liability or debt aforesaid was incurred, and as to the property or means he still has of discharging the judgment, and as to the disposal he has made of any property since contracting the debt or incurring the liability, and as to any and what debts are owing to him.

The examination is to be for the purpose of discovery only, and no order is to be made on the evidence given on such examination.

365. In any case of judgment or order, other than for the recovery of payment of money, if any difficulty arises in or about the execution or enforcement thereof, any party interested may apply to a Judge, *ex parte* and the Judge may make such order thereon, for the attendance and examination of any party or otherwise, as may be just. (E. 611.)

366. Any person liable to be examined under either of the last two preceding Sections of this Ordinance, shall be entitled to the like conduct-money, and payment for expenses and loss of time as upon attendance at a trial in Court, and may be compelled to attend and testify, and to produce books and documents, in the same manner, and subject to the same rules of examination, and the same consequences of neglecting to attend, or refusing to disclose the matters in respect of which he may be examined, as in the case of a witness on a trial.

367. The costs of any application under the last three preceding Sections of this Ordinance, or either of them, and of any proceedings arising from, or incidental thereto, shall be in the discretion of the Judge. (E. 612.)

## GARNISHMENT.

368. Upon the affidavit of any person who has obtained a judgment or order for the recovery or payment of money, or his advocate or agent stating that judgment has been recovered, or the order made, and that it is still unsatisfied, and to what amount: or before judgment, in cases where the plaintiff's claim is for a debt or liquidated demand, on a like affidavit, showing the nature and amount of such claim: in either case, such affidavit, further stating that any other person (naming him) is indebted to such debtor, and is within the jurisdiction of the Court and filing such affidavit with the Clerk, the Clerk shall issue a summons in the form to the Appendix, calling upon the said person (hereinafter called the garnishee) to appear within ten days after service of such summons, and state whether or not he admits any indebtedness due or accruing due as alleged, and to what amount, and show cause, if any, why he should not pay into Court the amount of the said indebtedness or sufficient to satisfy the plaintiff's claim and costs, provided that no order be made against the garnishee, until after judgment has been given for the plaintiff in the original action.

369. Service of such summons upon the garnishee shall bind such debts in his hands, and in case of a Corporation being garnishee, that has a branch or agency thereof within the jurisdiction, or in case of a non-resident carrying on business within the jurisdiction, having an agent, managing clerk or other representative resident and carrying on business therein, service of the summons upon such agent, managing clerk or other representative shall bind the debts and a copy of such summons shall be served upon the defendant within one month after the same has been issued.

due or claimed to be due from him to such debtor, or if it does not appear upon the summons, then the Judge may after judgment has been entered against the primary debtor, order that judgment be entered up against the garnishee and that execution issue, and it may issue accordingly, to levy the amount due from such garnishee, or so much thereof as may be sufficient to satisfy the judgment or order. (E. 624.)

371. If the garnishee disputes his liability he shall enter with the Clerk within the time specified in the summons or such further time as the Judge may allow, an appearance to the summons, accompanying which appearance shall be a statement showing the grounds on which he disputes liability, after which, on application of the plaintiff, the Judge may fix a time and place for summarily determining the question of liability, or may order that the same be tried and determined in any manner which any issue or question in an action may be tried and determined, and such determination shall form a judgment of the Court, to be enforced as such.

372. If within two months after the appearance by the garnishee the plaintiff does not proceed to have the question of liability determined as hereby provided, the garnishee may apply for an order to set aside the garnishee summons.

373. Whenever, in proceedings to obtain an attachment for debts, it is suggested by the garnishee that the debt sought to be attached belongs to some third person, or that any third person has a lien or charge upon it, the Judge may order such third person to appear, and state the nature and particulars of his claim upon such debt. (E. 626.)

374. After hearing the allegations of any third person under such order as in the next preceding Section mentioned, and of any other person whom by the same or any subsequent order the Judge may order to appear, or in case of such third person not appearing when ordered, the Judge may order execution to issue to levy the amount due from such garnishee, or any issue or question to be tried or determined in manner aforesaid and may bar the claim of such third person or make such other order as such Judge shall think fit, upon such terms, in all cases with respect to the lien or charge (if any) of such third person, and to costs as the Judge shall think just and reasonable. (E. 627.)

375. Payment made by or execution levied upon the garnishee under any such proceeding as aforesaid shall be a valid discharge to him against the debtor to the amount paid or levied, although such proceedings may be set aside.



or the judgment or order reversed, or the plaintiff fails in his action. (E. 628.)

(a) No money paid into Court under garnishee proceedings shall be paid out without the order of a Judge, unless the plaintiff and defendant consent thereto.

376. The garnishee shall not be liable for the costs of the proceedings unless and in so far only as occasioned by setting up a defence which he knew, or ought to have known was untenable; and the plaintiff, or judgment creditor in garnishee proceedings, shall be entitled to tax against the defendant or judgment debtor and add to the judgment the costs of such proceedings, unless the Judge otherwise orders and subject to <sup>his</sup> ~~the~~ provision the costs of all parties shall be in the discretion of the Judge.

377. No execution shall in any case issue to levy the money owing from any garnishee until and so far only as such money shall become fully due.

378. No debt due <sup>accruing due</sup> ~~or accruing~~ to a mechanic, workman, laborer, servant, clerk or employee for or in respect of his wages or salary shall be liable to seizure or attachment under this Ordinance or any other Ordinance unless the said debt exceeds the sum of twenty-five dollars, and then only to the extent of the excess.

379. Nothing in the next preceding Section contained shall apply to any case where the debt has been contracted for board or lodging.

#### INTERLOCUTORY ORDERS AS TO MANDAMUS, INJUNCTIONS OR INTERIM PRESERVATION OF PROPERTY.

380. When by any contract a *prima facie* case of liability is established, and there is alleged as matter of defence a right to be relieved wholly or partially from such liability, the Court or Judge may make an order for the preservation or interim custody of the subject matter of the litigation, or may order that the amount in dispute be brought into Court or otherwise secured. Application for an order under this Section may be made on notice by any party, at any time after his right thereto appears from the pleadings

or, if there be no pleadings, is made to appear by affidavit, or otherwise, to the satisfaction of the Court or Judge, (E. 657 and 663.)

381. It shall be lawful for a Judge, on the application of any party, to make any order for the sale by any person or persons named in such order, and in such manner and on such terms as the Judge may think desirable, of any goods, wares or merchandise which may be of a perishable nature or likely to injure from keeping, or which for any other just or sufficient reason it may be desirable to have sold at once. (E. 658.)

382. It shall be lawful for a Judge, upon the application of any party to a cause or matter, and upon such terms as may be just, to make any order for the detention, preservation or inspection of any property or thing being the subject of such cause or matter, or as to which any question may arise therein, and for all or any of the purposes aforesaid, to authorize any person to enter upon or into any land or building in the possession of any party to such cause or matter, and for all or any of the purposes aforesaid, to authorize any samples to be taken, or any observation to be made or experiment to be tried, which may be necessary or expedient for the purpose of obtaining full information or evidence. (E. 659.)

383. It shall be lawful for the Judge, by whom any cause or matter may be heard or tried, with or without a Jury or before whom any cause or matter may be brought, to inspect any property or thing concerning which any question may arise therein, and in jury cases the Judge may make all such orders upon the Sheriff, or other person as may be necessary to procure the attendance of the jury at such time and place and in such manner as he may think fit. (E. 660 and 661.)

384. Where an action is brought to recover, or a defendant in his defence seeks, by way of counter-claim, to recover specific property other than land, and the party from whom such recovery is sought does not dispute the title of the party seeking to recover the same, but claims to recover the property by virtue of a lien, or otherwise, as security for

any sum, the Judge may, at any time after such last mentioned claim appears from the pleadings, or, if there be no pleadings, by affidavit or otherwise to the satisfaction of such Judge, order that the party, claiming to recover the property, be at liberty to pay into Court, to abide the event of the action, the amount of money in respect of which the lien or security is claimed and such further sum, if any, for interests and costs as such Judge may direct, and that upon such payment into Court being made, the property claimed be given up to the party claiming it. (E. 664.)

385. Where any real or personal estate forms the subject of any proceedings in the Court and the Judge is satisfied that the same will be more than sufficient to answer all the claims thereon which ought to be provided for in such proceedings, the Judge may at any time after the commencement of the proceedings, allow to the parties interested therein, or to any one or more of them, the whole or part of the annual income of the real estate, or a part of the personal estate, or the whole or a part of the income thereof, up to such times as the Judge shall direct. (E. 665.)

386. Whenever in an action for the administration of the estate of a deceased person, or execution of the trusts of a written instrument, a sale is ordered of any property vested in any executor, administrator, or trustee, the conduct of such sale shall be given to such executor, administrator, or trustee, unless the Judge shall otherwise direct. (E. 666.)

387. An injunction shall be by a judgment or order, and any such judgment or order shall have the effect which a writ of injunction has in England. (E. 667.)

388. In any cause or matter in which an injunction has been, or might have been claimed, the plaintiff may, before or after judgment, apply for an injunction to restrain the defendant or respondent from the repetition or continuance of the wrongful act or breach of contract complained of, or from the commission of an injury or breach of contract of a like kind relating to the same property or right or arising out of the same contract: and the Judge may grant injunction, either upon or without terms, as may be just. (E. 668.)

## RECEIVERS.

389. Where an order is made directing a receiver to be appointed, unless otherwise ordered, the person to be appointed shall first give security, to be allowed by a Judge, duly to account for what he shall receive as such receiver and to pay the same as the Court or Judge shall direct, and the person so to be appointed shall, unless otherwise ordered, be allowed a proper salary or allowance. (E. 672.)

390. When a receiver is appointed with a direction that he shall pass accounts, the Judge shall fix the days upon which he shall annually, or at longer or shorter periods, file, and pass such accounts, and also the days upon which he shall pay the balances appearing due on the accounts so filed, or such part thereof as shall be certified as proper to be paid by him, and with respect to any such receiver as shall neglect to file and pass his accounts, and pay the balances thereof at the times so to be fixed for that purpose as aforesaid, the Judge, before whom any such receiver is to account, may, from time to time, when his subsequent accounts are produced to be examined and passed, disallow the salary therein claimed by such receiver, and may also, if he shall think fit, charge him with interest upon the balances so neglected to be paid by him during the time the same shall appear to have remained in the hands of any such receiver. (E. 674.)

391. In case any receiver failing to file any account or affidavit, or to pass such account, or to make any payment or otherwise, the receiver, or the parties, or any of them may be required to attend before the Judge to show cause why such amount or affidavit has not been filed, or such account passed, or such payment made, or any other proper proceedings taken; and thereupon such directions as shall be proper may be given by the Judge including the discharge of any receiver and appointment of another, and payment of costs. (E. 677.)

392. When a receivership has been completed, the book containing the accounts shall be deposited in the Clerk's office.

393. The accounts of liquidators and of guardians shall



be passed and verified in the same manner as receiver's accounts.

#### ATTACHMENT BEFORE JUDGMENT.

394. At or after the commencement of any suit wherein the claim is for the recovery of a debt from the defendant to the plaintiff, upon affidavit made by the plaintiff, or one of several plaintiffs, if more than one, his or their agent having a personal knowledge of the matter, stating clearly and succinctly from what cause such debt arose and the amount thereof, and that he has good reason to believe (giving such reasons therefor) that the defendant :—

(a) Has absconded from the Territories, leaving personal property in any Judicial District thereof liable to seizure under execution for debt ;

(b) or has attempted to remove such personal property out of the said Territories, or to sell or dispose of the same, with intent to defraud his creditors generally, or the plaintiff in particular ;

(c) or keeps concealed to avoid service of process ; and in either case, that the deponent verily believes that without the benefit of the attachment the plaintiff will lose his debt or sustain damage.

And upon the further affidavit of one other credible person that he is well acquainted with the defendant and has good reason to believe (giving such reasons) that the defendant has absconded, or has attempted to remove his personal property out of the said Territories, or to sell or dispose of the same, or keeps concealed, with intent as aforesaid, as the case may be ; and upon filing the said affidavits, the Clerk shall issue in the cause a writ of attachment in the form given in the Appendix hereto, directed to the Sheriff, commanding him to attach, seize, take and safely keep all the personal property and effects of such debtor liable to seizure under execution for debt, and to return such writ to the Court ; provided that in any cases where the debtor has absconded from the Territories, leaving no wife or family behind, no property of such debtor shall be exempt from seizure.

395. A copy of every such writ shall be served on the debtor against whose effects the same is issued, at the time of making any seizure thereunder, or as soon thereafter as such service can be effected, if the said debtor can be found ; but if such personal service cannot be effected, a copy thereof shall be left with some grown-up person resident at the place where such seizure is made ; or, if no person is resident, posted in a conspicuous place on the premises.

396. Immediately after making a seizure under said writ, the Sheriff shall make a return of the writ and with such return transmit annexed thereto an inventory of the property seized, and the value thereof, according to the best of his judgment, and an affidavit of the manner in which service of such writ has been effected.

397. Upon the seizure of any property under the writ hereinbefore described the person against whom the same was issued may have the same returned to him upon giving the returning officer sufficient security for such amount as the plaintiff may recover in the action (not exceeding the sum sworn to) together with costs of suit.

398. Notwithstanding the issue of a writ of attachment, the cause shall be proceeded with in the ordinary way, but the plaintiff shall not have judgment against the defendant except by order of the Judge.

399. A writ of attachment may be set aside by a Judge on satisfactory proof by affidavit that the creditor who sued out such writ had not reasonable cause for taking such proceeding.

400. In case any horses, cattle, sheep or any perishable goods or chattels, or such as from their nature cannot be safely kept or conveniently taken care of, are taken under any writ of attachment, the officer who seized the same shall have them appraised and valued on oath by two competent persons, and in case the plaintiff desires it and deposits with the Sheriff a bond to the defendant, executed by one or more persons, whose sufficiency shall be approved of by such officer, in double the amount of the appraised value of such articles, conditioned for the payment of such appraised value to the defendant, together with all costs and damages in-

curred by the seizure and sale thereof, in case judgment is not obtained by the plaintiff against the defendant, then the Sheriff, with the approval of a Judge, shall proceed to sell all or any of such enumerated articles at public auction to the highest bidder, giving not less than ten days' notice of such sale, unless any of the articles are of such a nature as not to allow of that delay, in which case the officer shall sell such articles last mentioned forthwith and shall hold the proceeds of such sale for the same purposes as he would have held any property seized under the attachment.

#### REPLEVIN.

401. In any action brought for the recovery of any personal property, and claiming, whether alone or with any other claim, that such property was unlawfully taken, or is unlawfully detained, the plaintiff may at any time after the issue of the writ of summons, obtain a writ of replevin for the delivery of the property to him, on his complying with the following Sections; such writ shall be in the form in the Appendix to this Ordinance, with such variations as circumstances may require; but nothing herein contained shall authorize the replevying any property seized by the Sheriff or any other officer charged with the execution of any process issued out of the Court.

402. Writs of replevin shall be issued by the Clerk of the Court, upon the plaintiff, or his duly authorized agent, filing an affidavit, naming the Judicial District in which the property is, and

[1] Embodying a description of the property sought to be replevied, and the value thereof, to the best of the deponent's belief; and that the person claiming is the owner or is entitled to the possession of the said property;

[2] Further stating, if replevin is sought in the case of property distrained for rent, or damage feasant, that the property was taken under color of distress for rent or damage feasant, as the case may be;

[3] Or in the case of property wrongfully taken out of the possession of the claimant, or fraudulently got out of his possession, stating, in addition to the particulars requir-

ed by sub-section one of this Section, the time and the wrongful and fraudulent manner in which the same was taken or gotten out of his possession, and such facts and circumstances as show that the claimant is entitled to the possession of the property;

(4) After the issue of a writ of replevin the defendant or his agent shall have the right to apply to the Judge for an order allowing him to retain possession of the property upon giving such security to the Sheriff as the Judge may order. Such security shall be assigned on request, to the party entitled to the benefit thereof, by the Sheriff indorsing his name thereon, and such indorsement shall be sufficient to enable such party to bring action thereon in his own name against the several parties who have executed such security.

403. Before the Sheriff replevies, he shall take a bond in double the value of the property to be replevied, as stated in the writ. The bond shall be assignable to the defendant by the Sheriff endorsing his name thereon and such endorsement shall enable the defendant to bring action thereon in his own name against the parties who have executed it. The bond may be in the form in the Appendix to this Ordinance, with such variations as circumstances may require,

and the parties to such bond shall be liable to the defendant, and the defendant be entitled to recover from them in such action as well the value of the property replevied as the amount of any judgment in his favor in the original action, as also such damages as the defendant may have sustained by reason of detention of the property replevied by means of the said writ.

Any part thereof is secured, contained, or concealed in any dwelling-house, building, or enclosure, of the defendant, or of any other person keeping or holding the same, and the said Sheriff or officer demands from the owner, occupier, or other person in charge of the premises aforesaid, deliverance of the said property, and the same shall not be delivered



upon such demand, he may, and if necessary he shall (but only between sunrise and sunset) break open such premises and enter and search the same for the purpose of replevying the property demanded, and if found therein replevy the same.

405. The Sheriff shall return the writ to the Clerk of the Court whence it issued, with a statement of his doings thereon, and shall annex to the return of the writ:

(1) The names, places of residence, and <sup>occupation</sup> ~~additions~~ of the sureties in, and the date of the bond taken from the plaintiff, and the names of the witnesses thereto;

(2) The number, quality and quantity of the articles of property replevied, and, in case he has replevied only a portion of the property mentioned in the writ, and cannot replevy the residue, he shall state in his return the articles which he cannot replevy, and the reason why not.

#### INTERPLEADER.

406. Relief by way of interpleader may be granted,—

(1) Where the person seeking relief (in this Ordinance, called the applicant), is under any liability for any debt money, goods or chattels, for or in respect of which he is or expects to be sued, ~~two~~ <sup>by</sup> two or more parties (in this Ordinance called the claimants) making adverse claims thereto:

(2) Where the applicant is a Sheriff or other officer charged with the execution of process by or under the authority of the Court, and claim is made to any money, goods, or chattels, taken or intended to be taken in execution or attachment under any process, or to the proceeds or value of any such goods or chattels by—

(a) Any person other than the person against whom the process issued.

(b) Any landlord for rent.

(c) Any second or subsequent execution creditor claiming

priority over any previous judgment, execution, process, or proceeding.

(d) The execution debtor claiming the benefit of any exemptions from seizure allowed by law.

407. Where a claim is made to or in respect of any goods or chattels taken in execution under the process of the Court it shall be in writing, and upon the receipt of the claim the Sheriff or his officer shall forthwith give notice thereof to the execution creditor and the execution creditor shall, within four days after receiving the notice, give notice to the Sheriff or his officer that he admits or disputes the claim. If the execution creditor admits the title of the claimant, and gives such notice he shall only be liable to such Sheriff or officer for any fees and expenses incurred prior to the receipt of the notice admitting the claim.

408. Where the execution creditor does not in due time, as directed by the last preceding Section, admit or dispute the title of the claimant to the goods or chattels, and the claimant does not withdraw his claim thereto by notice in writing to the Sheriff or his officer, the Sheriff may apply for an Interpleader summons to be issued, and should the claimant withdraw his claim by notice in writing to the Sheriff or his officer, or the execution creditor in like manner serve an admission of the title of the claimant prior to the return day of such summons, and at the same time give notice of such admission to the claimant, the Judge may, in and for the purposes of the Interpleader proceedings, make all such orders as to costs, fees, charges and expenses, as may be just and reasonable.

409. The applicant must satisfy the Court or Judge by affidavit or otherwise :

(1) That the applicant claims no interest in the subject-matter, or dispute, other than for charges or costs : and

(2) That the applicant does not collude with any of the claimants, and

(3) That the applicant is willing to pay or transfer the

subject-matter into Court or to dispose of it as the Court or Judge may direct. (E. 851.)

410. The applicant shall not be disentitled to relief by reason only that the titles of the claimants have not a common origin, but are adverse to and independant of another. (E. 852.)

411. When the applicant is a defendant, application for relief may be made any time after service of the writ of summons. (E. 853.)

412. The applicant may take out a summons calling on the claimants to appear and state the nature and particulars of their claims, and either to maintain or relinquish them. (E. 854.)

413. If the application is made by a defendant in an action, the Court or Judge may stay all further proceedings in the action. (E. 855.)

414. If the claimants appear in pursuance of the summons, the Court or Judge may order either that any claimant be made a defendant in any action already commenced in respect to the subject-matter in dispute in lieu of or in addition to the applicant, or that an issue between the claimants be stated and tried, and, in the latter case, may direct which of the claimants is to be plaintiff and which defendant, as also the time and place for the trial of such issue. (E. 856.)

415. The Judge may, if it seems desirable so to do, dispose of the merits of their claims, and decide the same in a summary manner and on such terms as may be just. (E. 857.)

416. When the question is a question of Law, and the facts are not in dispute, the Judge may either decide the question without directing the trial of an issue, or order that a special case be stated for the opinion of the Court. If a special case is stated, the provisions herein relating to special cases shall as far as applicable, apply thereto. (E. 858.)

417. If a claimant, having been duly served with a summons calling upon him to appear and maintain or relinquish his claim, does not appear in pursuance of the summons, or, having appeared, neglects or refuses to comply with any order made after his appearance, the Court or Judge may make an order declaring him, and all persons claiming under him, for ever barred against the applicant, and persons claiming under him, but the order shall not affect the rights of the claimants as between themselves. (E. 859.)

418. Subject to the provisions of Section 603 of this Ordinance an appeal will be to the Court in banc from the decision of a Court or a judge in any interpleader proceeding, but subject to such appeal the decision of the Court or judge shall be final and conclusive against the claimants and all persons claiming under them.

419. The Court or Judge, on a party's application, and after the application of the proceeds of the sale in such manner and upon such terms as may be just. (E. 861.)

420. The provisions of this Ordinance in respect to discovery and inspection shall, with the necessary modifications, apply in interpleader proceedings, and the Judge before whom the proceedings are had may finally dispose of the whole matter of the interpleader proceedings, including all costs not otherwise provided for. (E. 862 in part.)

421. In case the Sheriff has more than one writ, at the suit or instance of different parties, against the same property, it shall not be necessary for the Sheriff to make separate applications on such writs or in each case; but he may make one application, and make all the parties, who are execution-creditors, parties to the said application; and the Court or Judge before whom the application is made may make such order therein, as if a separate application had been made upon and in respect of each writ. (R.S.M. 601.)

422. Pending the adjudication of any such claim, the Sheriff may, upon sufficient security being given to him by



bond or otherwise for the forthcoming and delivery to him of the property so taken, or the value thereof when demanded permit the claimant to retain possession of the same until there shall be final adjudication in respect of the same; but in every such case it shall be competent for the said Sheriff or other officer, at any time he shall see fit, to resume the actual and absolute possession and custody of the said property, notwithstanding such bond or security. Horses, cattle, sheep, or any perishable goods, the subject of interpleader, may, at the request of either party and upon his furnishing sufficient security, or by order of the Judge, be sold by the seizing officer at public auction to the highest bidder, giving not less than ten days notice of such sale unless any of the articles are of such a nature as not to admit of that delay, in which case they may be sold forthwith.

423. The Court or a Judge may, in and for the purposes of any interpleader proceedings, make all such orders as to costs and all other matters as may be just and reasonable. (E. 864.)

#### LUNATICS.

424. The word "lunatic" in the subsequent Sections of this Ordinance shall include an idiot or other person of unsound mind.

425. In the case of lunatics and their property and estates, the jurisdiction of the Court shall, subject to the following provisions, include that which in England is conferred upon the Lord High Chancellor by a Commission from the Crown under the Sign Manual.

426. Proceedings in lunacy shall be by petition to the Judge, filed with the Clerk of the Court for that purpose verified on oath, setting forth the grounds on which the application is made and the relation, connection of the petitioner to or with the alleged lunatic and his property and estate, as also a description and value of the same separating real and personal estate. (R. S. M., cap. 58.)

427. Upon presentation of such petition, the Judge shall appoint a time and place at which he will hear the same, at

which time and place (all necessary parties having been duly notified) the Judge shall enquire into the facts and hear such evidence under oath as may be adduced, and thereupon determine whether or not the person who is subject of the enquiry is, at the time of such enquiry, of unsound mind, has property and is incapable of managing such property. (R. S. M. cap. 58.)

428. A copy of such petition and notice of the intended application shall be served on the alleged lunatic, unless such service be dispensed with by the Judge.

429. The Judge may order the issue of a Commission to take evidence to be used on any such hearing, as in any ordinary suit in Court, and all depositions taken thereunder shall be received in evidence at the hearing, saving all just exceptions. (R. S. M. cap. 58.)

430. In case the Judge shall determine such person to be a lunatic and that he has property, the Judge shall forthwith order the appointment, under the seal of the Court, of one or more persons as guardian or guardians to his estate (R. S. M. cap. 58.)

431. On every such enquiry the alleged lunatic, if he be within the jurisdiction of the Court, shall be produced and examined by the Judge, unless such examination be dispensed with. (R. S. M. cap. 58.)

432. The Judge may order the costs, charges and expenses of and incidental to proceedings in matters of lunacy to be paid either by the party presenting the petition or the party opposing the same (if opposition is made), or out of the estate, or partly one way and partly the other. (R. S. M. cap. 58.)

433. In every case, unless otherwise specially provided by order of the Judge, the following provisions shall be complied with:—

(1) The guardian of the estate shall, before receiving his appointment, furnish his own bond, together with those of two or more persons approved of by the Judge, as sureties in double the approximate value of the personal estate and

of the annual value of the real estate, for duly accounting for the same, once in each year, or oftener if required by the Judge or Court, such bond to be in a form approved of by the Judge, to the Clerk of the Court and his successors in office, or legal assigns, which bond shall be filed in Court:

(2) The guardian of the estate shall, within six months after appointment, file in Court a true inventory of the whole real and personal property and estate of the lunatic, stating the income and profits thereof and setting forth the debts, credits and effects of the lunatic, so far as the same have come to the knowledge of the guardian;

(3) If any property belonging to the estate be discovered after the filing of the inventory, the guardian shall file a true account of the same from time to time, as the same is discovered:

(4) Every inventory shall be verified by the oath of the guardian. (R.S.M. Cap. 58.)

434. Whenever the personal estate of a lunatic is not sufficient for the discharge of his debts,—

(1) The guardian of his estate may apply by petition to the Judge for authority to mortgage or sell so much of the real estate as may be necessary for the payment of such debts;

(2) Such petition shall set forth the particulars and amount of such estate, real and personal, of the lunatic, the application made of any personal estate, and an account of the debts and demands against the estate;

(3) The Judge shall make or cause to be made enquiries into the truth of the representations made in the petition, and hear all parties interested in the real estate;

(4) If the Judge is satisfied as to the result of such enquiries, that the personal estate is not sufficient for the payment of the debts and that the same has been applied to that purpose as far as the circumstances of the case render proper, the Judge may order the real estate or a sufficient

portion of it to be mortgaged or sold by the guardian, and the moneys thus raised shall be employed for the payment of the debts of the estate, and, if insufficient, shall be distributed in the same way as intestates' estates are distributed by Law, the guardian having first provided a bond, with sureties, similar in terms to that provided by subsection 1 of Section 433 of this Ordinance, for duly accounting for the proceeds so raised. (R.S.M. cap. 58.)

435. When the personal estate and the rents, profits and income of the real estate of the lunatic are insufficient for his maintenance or that of his family, or for the proper education of his children, or when for any other cause it shall appear desirable so to do, on application made by the guardian or by any member of the family of the insane person, the Judge may, after enquiry as hereinbefore provided in the case of debts, order the mortgaging or sale of the whole or part of the real estate of the lunatic by the guardian, the guardian having first provided a bond, with sureties as required by the preceding Section. (R.S.M. cap. 58.)

436. The Judge may order such fees to the Clerk of the Court and costs of and relating to any petition, order, direction and conveyance, including remuneration to the guardian, as he may consider reasonable, to be paid and raised from the lands, rents or personal estate of the lunatic in respect of whom the same may be respectively incurred, made or caused. (R.S.M. cap. 53.)

437. On sufficient grounds shown, the Judge may remove a guardian and appoint another in his stead. (R. S. M. cap. 58.)

438. In the proceedings aforesaid, the petitions and papers may be entitled as follows :

In the Supreme Court,

District.

In the matter of

439. The Court, or a Judge thereof, may appoint guardians



of infants and of their estates (but unless the Court or Judge shall otherwise order no guardian shall be appointed to the person or estate of any infant of the age of fourteen years or over without the consent of such infant) and letters of appointment may be obtained as in the case of letters of administration; a record of every appointment and removal shall be made and the like record thereof kept with the papers upon which the appointment and removal is made in like manner as near as may be, as in the case of probate and administration.

440. The Court or Judge may, upon hearing the petition of the mother of an infant whose father is dead, appoint the mother or some other person to take the guardianship of the person of the infant, notwithstanding any testamentary provisions to the contrary, or any appointment of another person as guardian by the father, if it shall appear just and proper; and may also make an order for the maintenance of the infant by the payment, out of any estate to which the infant is or shall be entitled, of such sum or sums of money, from time to time, as, according to the value of the estate, such Court or Judge thinks just and reasonable. (R.S.M. cap. 39)

441. The Court or Judge may give effect to the testamentary appointment, by the mother, of guardians of infant children, either as respects the person or estate, or one or both, notwithstanding the previous appointment of guardians by testament of the father of such infants, upon petitions presented and facts proved, if it shall seem advisable and in the interest of the infants to do so; and make an order for the maintenance of the infants, as in the last preceding Section mentioned. (R. S. M. cap. 39.)

442. Testamentary guardians and trustees may be removed for proper cause, the same as other guardians and trustees. (R. S. M. cap 39.)

443. In all matters and applications touching or relating to the appointment of guardians, control or removal of guardians of any infants, and the security to be given by such guardians or otherwise, the Court or Judge shall have full power and authority to summon and order the attendance of witnesses, and to order the examination of the

same before the Court or Judge, and to order the production of deeds, writings and documents, and generally to enforce all orders, decrees and judgments, in such manner as shall seem expedient, according to the practice and procedure of the Court in that behalf, and in such manner as the Court or Judge shall direct. (R.S.M. cap. 39.)

444. Upon the written application of any infant or the friend or friends of any infant, and upon notice thereof to the mother of such infant, if living in the Territories, the Court or Judge may, upon a proper case made out for that purpose, appoint some suitable and discreet person or persons to be guardian or guardians of such infant. (R.S. M. cap 39.)

445. There shall be taken from the guardian or guardians appointed by the Court, a bond in the name of the infant or infants, in such penal sum, and with or without sureties, as the Court or Judge shall direct or approve, having regard to the circumstances of each case; and such bond shall be conditional that the said guardian or guardians shall and will faithfully perform the said trust, and that he or they, his or their executors or administrators, shall and will, when the said ward becomes of the full age of twenty-one years, or whenever thereunto required by the Court or any Judge, render to his or their said ward, or his or their executors or administrators, a true and just account of all goods, moneys, interests, rents, profits of property of such ward, which have come, or which might but for his or their default have come into the hands of such guardian or guardians, and shall and will thereupon, without any delay, deliver and pay over to the said ward, or to his or her executors or administrators, the property or the sum or balance of money which may be in the hands of the said guardian or guardians, belonging to such ward, deducting therefrom and retaining a reasonable sum for the expenses and charges of the said guardian or guardians; and such bond shall be filed and recorded in the books in the office of the Clerk of the Court, but in cases where the estate is of small value, such bond or bonds may be dispensed with.

446. The guardian or guardians of any infant so appointed shall, during the continuance of his or her guardian-

ship, have authority to act for and in behalf of his or their ward : and shall have the charge and management of the estate, both real and personal, of the said ward ; the care of the person and education of such ward ; and in case the infant be under the age of fourteen years, may, with the approbation of two of Her Majesty's Justices of the Peace and the consent of such ward, or in case the infant be not under the age of fourteen years, then with the consent of the ward only, may place or bind him or her an apprentice to any lawful trade, profession or employment : such apprenticeship in the case of males not extending beyond the age of twenty-one years, and in the case of females, not beyond the age of eighteen years, or the marriage of the ward within that age. (R. S. M. cap. 39.)

447. The Court or Judge may, on proper cause being shown for that purpose, discharge any such ward from the apprenticeship in the last preceding Section mentioned, and order the articles or instrument of apprenticeship to be delivered up to be cancelled, or make such other order in respect of the master or apprentice, or either of them, as shall under the circumstances, appear to be proper and just ; and may also, upon reasonable complaint made and sustained, remove any guardian or guardians from his or their guardianship ; and, if it shall appear necessary, appoint another guardian or guardians in his or their stead. (R. S. M. cap. 39.)

448 The practice and procedure in respect of guardianship, and all questions relating thereto, shall conform, as nearly as the circumstances will admit, to the practice and procedure in England : provided always, that the Court or Judge may in any case where the circumstances warrant it to save expenses, vary the same. (R.S.M. cap. 39.)

#### CUSTODY OF INFANTS.

449. The Court or Judge, upon application by the mother of any infant being in the sole custody or the control of the father thereof, or of any other person by his authority, or of any other person without his authority, or of any guardian after the death of the father, may make an order for the access of the mother to such infant, at such times and subject to such regulations as the Court or Judge thinks

convenient and just; and if such infant be within the age of twelve years, may make an order for the delivery of such infant into the custody and control of the mother, and there to remain for such time and under such conditions as the Court or Judge shall prescribe; and in disposing with any such application the Court or Judge may also make an order for the maintenance and education of such infant by payment by the father thereof, or by payment, out of any estate to which such infant may be entitled, of such sum or sums of money, from time to time, as, according to the pecuniary circumstances of such father, or the value of such estate, the Court or Judge thinks just and reasonable. As a rule, the father shall have the custody and control of his infant children; but it shall be lawful for the Court, or any Judge, on a proper case made for that purpose, to order any infant child or children to be delivered into the sole custody and control of the mother, on such conditions and subject to such regulations as the circumstances and facts of the case shall render proper, reasonable and just, wherever such child or children may be or under whatever authority and control they may have been placed, any law, usage or custom to the contrary notwithstanding. (R.S.M. cap 39.)

450. On the investigation of the facts on any application mentioned in the preceding Section, the Court or Judge may enforce the attendance of any person before the Court or Judge, and take evidence under oath touching the matter for the application, by rule or order made for that purpose; and on failure of the person to attend for the purpose aforesaid, after notice of the rule or order in that behalf, to order that such person shall be committed for contempt of Court; or may decide such application on affidavits received and filed or to be received and filed, or on the evidence taken viva voce and the said affidavits. (R.S.M. cap 39.)

451. All orders and rules made by a Judge or by the Court, under any of the preceding Sections of this Ordinance, may, in addition to all other remedies, be enforced by attachment or process for contempt by the Judge or by the Court, according as the same shall be made by a Judge or the Court. (R.S.M. cap 39.)

452. No order, directing that the mother shall have the



custody of or access to an infant, shall be made in virtue of the preceding Sections of this Ordinance in favour of a mother against whom adultery has been established, or to whom the custody and control of an infant could not be safely confided on account of improper conduct or habits of life. (R. S. M. cap. 39.)

#### ESTATE AND PROPERTY OF INFANTS.

453. When an infant is seized or possessed of, or entitled to any real estate in fee simple or for a term of years, or otherwise howsoever in the Territories, and the Court or a Judge is of opinion that a sale, lease, or other disposition of the same or any part thereof, is expedient, necessary or proper, in the interest of the infant or for the maintenance or education of the infant or that by reason of any part of the property being exposed to waste and delapidation, or to depreciation from any other cause satisfactory to the Court or Judge, his interest regains or will be substantially promoted by such sale, lease, or other disposition the Court or Judge may order the sale, letting for a term of years, or other disposition of such real estate or any part thereof, to be made under the direction of the Court or Judge, or by the guardian of the infant, or by any person appointed for the purpose, in such manner and with such restrictions as may seem expedient; and may order the infant to convey or demise, or otherwise dispose of the estate as the Court or Judge thinks proper. (R. S. M. cap. 39.)

454. The application shall be made in the name of the infant by his next friend, or by his guardian; but shall not be made without the consent of the infant if he is of the age of seven years or upwards. (R. S. M. cap. 39.)

455. When the Court or Judge deems it convenient that a conveyance should be executed by some person in the place of the infant, the Court or Judge may direct some other person in the place of the infant to convey the estate. (R. S. M. cap. 39.)

456. Every such conveyance, whether executed by the infant or some person appointed to execute the same in his place, shall be as effectual as if the infant had executed the

same, and had been of the age of twenty-one years at the time. (R. S. M. cap. 39.)

457. The moneys arising from any such sale, lease or other disposition shall be laid out, applied and disposed of in such manner as the Court or Judge directs. (R. S. M. cap. 39.)

458. On any sale, lease, or other disposition so made, the moneys so raised, or the securities taken or the surplus thereof shall be of the same nature and character as the estate sold or disposed of, and the heirs, next of kin or other representatives of the infant, shall have the like interest in any surplus which may remain of the proceeds at the decease of the infant as they would in the estate sold or disposed of, if no sale or other disposition had been made thereof. (R. S. M. cap. 39.)

459. If any real estate of an infant is subject to any incumbrance, and the person entitled to such incumbrance consents in writing to accept, in lieu of such incumbrance, any gross sum of money which the Court or Judge thinks reasonable, or the permanent investment of a reasonable sum of money in such manner that the interest thereof be made payable to the person entitled to such incumbrance during her or his life, the Court or Judge may direct the payment of such sum, or the investment of such other sum of money, out of the proceeds or other disposition of the real estate of the infant: provided always that it shall be competent for the Court or Judge in any case where the estate of the infant is subject to any lien or incumbrance of uncertain duration, to compute the reasonable value of the same, and to order the sale or other disposition of the estate of the infant freed or discharged from such incumbrance, and direct the payment of the value of such incumbrance out of the proceeds of the sale or other disposition of the real estate of the infant. (R.S.M. cap. 39.)

460. In any proceeding for the selling, letting or other disposition of the estate of an infant, it shall not be necessary that the infant shall appear *in propria persona* before the Court or Judge, unless so ordered; but the ground of the proceedings must be made out to the satisfaction of the

Court or Judge, before the application is granted. (R.S.M. cap. 39.)

461. In case of any sale or other disposition of any real estate of an infant under the provisions of this Ordinance, the interest and estate sold, or otherwise disposed of, may be conveyed to the purchaser by the vesting order of the Court, which shall be to all intents and purposes as effectual to pass the interest and estate so sold or disposed of, as a conveyance duly executed as provided in this Ordinance. (R.S.M. cap. 39.)

#### PROBATE.

462. The grant of probate of wills or letters of administration shall be made by the Court in the Judicial District in which the testator or intestate was residing at the time of his death, or in case of death outside the Territories, the district within which the testator or intestate had, at his death, any property; and shall have effect over the estate of the deceased in all parts of the said Territories.

463. In the absence of any application to prove a will, or for letters of administration within twenty days after the decease of any person leaving personal estate, letters of administration may be granted to any person possessing the necessary qualifications to execute the trust, and considered suitable by the Judge.

464. Every person to whom letters of administration or guardianship are committed shall give a bond or bonds to the Judge granting the same, with one or more sureties as may be required by the said Judge, in such form and in such penalty as he may direct, or in cases where the estate to be administered is of small value, such bond or bonds may be dispensed with.

464. (a) If in any case it is in the interests of the estate of a deceased person that the same be forthwith administered, or that some one other than the personal representative be appointed to administer the estate, the Judge may, on application, with such notice (if any) as he may direct, appoint as administrator such person as he deems proper and may in making such appointment dispense

or an exemplification thereof, granted by a Court of competent jurisdiction in the United Kingdom, or in any Province or Territory of the Dominion, or in any other British Province, is produced to, and a copy thereof deposited with the Clerk of the Supreme Court of the North-West Territories for any Judicial District within said Territories, and the prescribed fees are paid as on a grant of probate or administration, the probate or letters of administration or other document aforesaid shall, under the direction of a Judge of the said Supreme Court, be sealed by said Clerk with the seal of the Supreme Court of the North-West Territories for the Judicial District for which said Clerk is appointed, and shall thereupon be of the like force and effect in the Territories, as if the same had been originally granted by the said Supreme Court, and shall be subject to any order of the last mentioned Court or any appeal therefrom, as if the probate or letters of administration had been granted thereby.

467. The letters of administration shall not be sealed with the seal of the Supreme Court until a certificate has been filed under the hand of the Registrar, Clerk or other officer of the Court, wherever the same issued, that security has been given in a sum sufficient to cover as well the assets within the jurisdiction of the said Court as the assets within the Territories, or in the absence of such certificate, until security is given to the Judge as in the case of granting original letters of administration.

468. Before probate of a will or letters of administration of the personal estate and effects of a deceased person have been granted, any person may institute proceedings to restrain any one committing waste by dealing or intermeddling with the estate. When such proceedings have been taken in good faith for the preservation of the property, the party instituting such proceedings shall be entitled to costs of the action, unless the Court or Judge shall otherwise order.

469. Where no probate of the will of a deceased person or letters of administration to his estate have been granted, and representation of such estate is required in any action or proceeding in Court, the Judge may appoint some person administrator, *ad litem*, according as the case may require,



to the estate, and the person so appointed shall give security, if not dispensed with, as the Judge may require, and have, *pendente lite*, as the case may be, the rights, authorities, and responsibility of an administrator, as in other cases.

#### MOTIONS AND OTHER APPLICATIONS.

470. Except on motions or applications for orders to show cause only, no motion shall be made without previous notice to the parties affected thereby. But the Court or Judge, if satisfied that delay caused by proceeding in the ordinary way would or might entail irreparable or serious mischief, may make an order *ex parte* upon such terms as to costs and otherwise, and subject to such undertaking, if any, as the Court or Judge may think just: and any party affected by such order may move to set it aside or to vary it. (E. 698.)

471. Every notice of motion or application shall state in general terms the grounds of the application; and where any such motion is founded on evidence by affidavit, a copy of any affidavit intended to be used shall be served with the notice of motion. (E. 699.)

472. Unless the Court or a Judge gives special leave to the contrary, there must be at least two clear days between the service of a notice of motion and the day named in the notice for hearing the motion. (E. 700.)

473. If on the hearing of a motion or other application, the Court or Judge shall be of opinion that any person to whom notice has not been given ought to have or to have had such notice, the Court or Judge may either dismiss the motion or application, or adjourn the hearing thereof, in order that such notice may be given upon such terms, if any, as the Court or Judge may think fit to impose. (E. 701.)

474. The hearing of any motion or application may, from time to time, be adjourned upon such terms, if any, as the Court or Judge may think fit. (E. 702.)

475. The plaintiff shall, without any special leave, be at

liberty to serve any notice of motion, or other notice, or any petition or summons upon any defendant, who having been duly served with a writ of summons to appear, has not appeared within the time limited for that purpose. (E. 703)

476. The plaintiff may, by leave of the Court or Judge to be obtained *ex parte*, serve any notice of motion upon any defendant, along with the writ of summons, or at any time after service of the writ of summons, and before the time limited for the appearance of such defendant. (E. 704.)

477. No order shall issue for the return of any writ, or order, or to bring in the body of any person ordered to be attached, arrested or committed: but a notice from the person issuing the writ, or obtaining the order for attachment, arrest, replevin or committal, (if not represented by an advocate), or by his advocate, calling upon the Sheriff to return such writ, or order, or to bring in the body within ten days, if not complied with, shall entitle such person to apply for an order for the committal of such Sheriff. (E. 706.)

478. Every order shall be dated the day of the month and year on which the same was made, unless the Court or a Judge shall otherwise direct, and shall take effect accordingly. (E. 708.)

#### MANDAMUS.

479. The plaintiff in any action in which he shall claim a mandamus to command the defendant to fulfil any duty, in the fulfilment of which the plaintiff is personally interested, shall include the demand in his claim annexed to the writ of summons.

480. If judgment be given for the plaintiff, the Court or Judge may by the judgment command the defendant either forthwith, or on the expiration of such time and upon such terms as may appear to the Court or Judge to be just, to perform the duty in question. The Court or Judge may also extend the time for the performance of the duty. (E. 721.)

481. In the event of non-compliance with the judgment

as aforesaid, the same may be enforced by prerogative mandamus as in England.

482. No action or proceeding shall be commenced or prosecuted against any person in respect of anything done in obedience to a writ of mandamus issued by the Court or Judge. (E. 730.)

#### APPLICATIONS AND PROCEEDINGS AT CHAMBERS.

483. Every application at Chambers not authorized to be made *ex parte* or on notice, shall be made by summons. (E. 734.)

484. Every application for payment or transfer out of Court made *ex parte*, and every other application made *ex parte* in which the Judge thinks fit so to require, shall be made by summons. (E. 735.)

485. Summonses shall not be altered after they are signed, except upon application at Chambers. (E. 736.)

486. Every summons, except an originating summons, shall be served two clear days before the return thereof, unless in any case it shall be otherwise ordered. (E. 737.)

487. Where any of the parties to a summons fail to attend, whether upon the return of the summons, or at any time appointed for the consideration or further consideration of the matter, the Judge, after waiting thirty minutes, may allow the case to proceed *ex parte*, if, considering the nature of the case, he thinks it expedient so to do; no affidavit of non-attendance shall be required or allowed, but the Judge may require such evidence of service as he may think just. (E. 738.)

488. When the case has been allowed to proceed *ex parte*, such proceeding shall not in any manner be reconsidered, unless the Judge shall be satisfied that the party failing to attend was not guilty of wilful delay or negligence: and in such case the costs occasioned by his non-attendance shall be in the discretion of the Judge, who may fix the same at the time and direct them to be paid by the party or his advocate, before he shall be permitted to have such pro-

proceeding reconsidered, or make such order as to such costs as he may think just. (E. 739.)

489. When a proceeding in Chambers fails by reason of the non-attendance of any party, and the Judge does not think it expedient to allow *ex parte* proceeding, the Judge may order such an amount of costs (if any), as he shall think reasonable, to be paid to the party attending by the absent party or by his advocate personally. (E. 740.)

490. When matters in respect of which summonses have been issued are not disposed of upon the return of the summons, the parties shall attend from time to time without further summons, at such time or times as may be appointed for the consideration or further consideration of the matter. (E. 741.)

491. The business to be disposed of by the Judge in Chambers shall include the following matters, in addition to the matters which otherwise may be disposed of :

(1) Applications for payment or transfer to any person of any cash or securities, interests or dividends, standing to the credit of any cause or matter, where there has been a judgment or order declaring the rights, or when the title depends only upon proof of the identity, or the birth, marriage or death of any person ;

(2) Applications as to guardianship and maintenance of infants ;

(3) Applications connected with the management of property ;

(4) Applications for or relating to the sale by auction or private contract of property, and as to the manner in which the sale is to be conducted, and for payment into Court and investment of the purchase money ;

(5) Applications for orders for the distribution of assets of absconding debtors or for the distribution of the estate of an intestate, or for the distribution of a fund among creditors ;



(6) Applications for time to plead for leave to amend pleadings, for discovery and production of documents, and generally all applications relating to the conduct of any cause or matter. (E. 764 in part)

(7) Revision of taxation of costs by Clerk within fifteen days from taxation.

492. The executors or administrators of a deceased person and the trustees under deed or instrument, or any of them, and any person claiming to be interested in the relief sought as creditor, devisee, legatee, next of kin, or heir at law of a deceased person, or as *cestui que trust*, under the trust of any deed or instrument, or as claiming by assignment or otherwise under such creditor or other person as aforesaid, may apply for and obtain from the Judge <sup>in originating</sup> summons returnable before him in Chambers, as such time as he may appoint :—

(1) For the administration of the estate of the deceased ;

(2) The administration of the trust ;

(3) The determination of any question affecting the rights or interests of the person claiming to be creditor, devisee, legatee, next of kin, or heir at law, or *cestui que trust* ;

(4) The ascertainment of any class of creditors, legatees, devisees, next of kin, or others ;

(5) The furnishing and vouching of any particular accounts by executors, administrators or trustees ;

(6) The payment into Court of any money in the hands of executors, administrators or executors ;

(7) Directing the executors or administrators or trustees to do, or abstain from doing, any particular act in their character as executors, administrators or trustees ;

(8) The approval of any sale, purchase, compromise or other transaction ;

(9) The determination of any question arising in the administration of the estate or trust. (E.765 & 766.)

(10) For an order that no action be brought or that all actions and proceedings pending against trustees, executors, or administrators be stayed for such period as to the said Judge may seem necessary or expedient in order that sufficient time be allowed to such trustee, executor, or administrator for the performance of the trusts imposed upon him: provided, however, than any creditor or other person interested in such estate may apply before expiration of such time for an order discontinuing such stay.

Issue of the case requires. (E.770.)

496. The Judge may give any special directions touching the carriage or execution of the judgment, or order, or the service thereof upon persons not parties, as he may think proper. (E. 771.)

497. The Judge may, in such way as he may think fit, obtain the assistance of accountants, merchants, engineers, and other scientific persons, the better to enable any matter at once to be determined, and he may act upon the certificate of any such person. (E. 781.)

498. Where a judgment or order is given or made, directing an account of debts, claims of liabilities, or an inquiry for heirs, next of kin, or other unascertained persons, unless otherwise ordered, all persons who do not come in and prove their claims within the time, which may be fixed for that purpose by advertisement, shall be excluded from the benefit of the judgment or order. (E. 806.)

499. At any time during proceedings at Chambers under any judgment or order, the Judge may, if he shall think fit, appoint a guardian *ad litem* for an infant or person of unsound mind, not already so found, who has been served with notice of such judgment or order. Any trustee, execu-

tor or administrator may without the institution of a suit, upon a written statement verified on oath, apply to a Judge in Chambers for the opinion, advice or direction of such Judge on any question respecting the management or administration of the trust, property or the assets of any testator or intestate, notice of such application to be served upon, or the hearing thereof to be attended by, all persons interested in such application, or such of them as the said Judge shall think expedient, and the said trustee, executor or administrator, acting upon the opinion, advice or direction given by the said Judge, shall be deemed, so far as regards his own responsibility, to have discharged his own duty as such trustee, executor or administrator, in the subject matter of the said application; provided nevertheless that nothing in this Section shall extend to indemnify any trustee, executor or administrator in respect of any act done in accordance with such opinion, advice, or direction, as aforesaid, if such trustee, executor or administrator shall have been guilty of any fraud or wilful concealment or misrepresentation in obtaining such opinion, advice or direction.

#### COURT IN BANC.

500. There shall be two regular sittings of the Supreme Court *in banc* in each year, to commence at 10 o'clock a.m. on the first Mondays in June and in December respectively. The sittings may be adjourned from time to time, as may be necessary.

501. If on any of the days appointed for the sittings of the Court *in banc*, a sufficient number of Judges to constitute a quorum have not arrived, the senior Judge present shall make such adjournment as he may think proper.

502. No judgment given or order made by the Court or a Judge, by the consent of parties, or as to costs only, which by Law are left to the discretion of the Court or Judge shall be subject to any appeal, except by leave of the Court or Judge giving the judgment or making the order.

503. No appeal shall lie from the judgment or order of the Court presided over by a single Judge, or a Judge of the Court to the Court *in banc*, without the special leave of the Judge or Court whose judgment or order is in ques-

tion, unless the title to real estate, or some interest therein, or the validity of a patent is affected, or unless the matter in controversy on the appeal exceeds the sum of two hundred dollars, exclusive of costs; or unless the matter in question relates to the taking of an annual or other rent, customary or other duty or fee, or a like demand of a public nature or general nature affecting future rights.

504. No security for costs shall be required in applications for new trials or appeals or motions in the nature of appeals unless by reason of special circumstances such security is ordered by a Judge upon application to be made within fifteen days from the service of the notice of ~~the~~ motion, application or appeal.

of re-hearing, and shall be brought by notice of motion, in a summary way, and no petition, case, or other formal proceeding other than such notice of motion, shall be necessary. In appeals, or motions in the nature of appeals, the appellant may, by the notice of motion, appeal from the whole, or any part of any judgment or order, and the notice of motion shall state whether the whole, or part only of such judgment or order is complained of, and in the latter case, shall specify such part, and such notice of motion shall state the grounds on which such application is based. (E. 865.)

506. The notice of motion shall be served within fifteen days after the trial, where the application is for a new trial and after judgment in appeals, but the Court or Judge may either before or after the expiration of that period enlarge the time for giving notice.

507. The notice may be amended at any time by leave of the Court or Judge, on such terms as the Court or Judge thinks just. (E. 555.)

508. In appeals, or motions in the nature of appeals, the notice of appeal shall be served on all parties directly affected by the appeal, and it shall not be necessary to serve parties not so affected; but the Court may direct notice of

*ref. by 407 & 1895.*



the appeal to be served on all or any parties to the action or other proceeding, or upon any person not a party, and in the meantime may postpone or adjourn the hearing of the appeal, upon such terms as may be just, and may give such judgment, and make such order as might have been given or made if the persons served with such notice had been original parties. Any notice of appeal may be amended as the Court may think fit. (E.866.)

509. On appeal, the Court shall have, in addition to all the powers and duties as to amendment, full discretionary powers to receive further evidence on questions of fact, as to matters which have occurred after the date of the decision from which the appeal is brought, by affidavit, or by deposition, taken before an examiner or commissioner; such further evidence shall be admitted on special grounds only, and not without special leave of the Court. The Court shall have power to draw inferences of fact and to give any judgment and make any order which ought to have been made, and to make such further or other order as the case may require. The powers aforesaid may be exercised by the Court, notwithstanding that the notice of appeal may be that part only of the decision may be reversed or varied, and such powers may also be exercised in favor of all or any of the respondents or parties, although such respondents or parties may not have appealed from or complained of the decision. The Court shall have power to make such order as to the whole or any part of the costs of the appeal as may be just. (E. 868 in part.)

510. A new trial shall not be granted on the ground of misdirection or of the improper admission or rejection of evidence, or because the verdict of the jury was not taken upon a question which the judge at the trial was not asked to leave to them, unless in the opinion of the Court, to which the application is made, some substantial wrong or miscarriage has been thereby occasioned in the trial; and if it appear to such Court that such wrong or miscarriage affects part only of the matter in controversy, or some or one only of the parties, the Court may give final judgment as to part thereof, or some or one only of the parties, and direct a new trial as to the other part only, or as to the other party or parties. (E. 256.)

511. A new trial may be ordered on any question, whatever be the grounds for the new trial, without interfering with the decision or finding upon any other question. (E. 557.)

512. When notice of motion for a new trial or notice of appeal has been served, the further proceedings of the verdict, finding, order, or judgment may be stayed, in whole, or in part, until the decision on such motion or appeal by the Court or by the Judge who presided at the trial, on such terms as the Court or Judge may think fit. The applicant, however, shall be entitled to an order so staying the proceedings on filing sufficient bail, or security, or making deposit of money, to the approval of the Court or Judge, in such reasonable amount as the Court or Judge shall direct, to respond to the judgment to be finally given in the cause or matter. An application to the judge for such stay of proceedings shall not prejudice the applicant's right to apply to the Court for such stay.

513. When any question of fact is involved in an appeal or application for a new trial, the evidence taken in the Court below, or by the Judge appealed from, bearing on such question, shall, subject to any special order, be brought before the Court as follows :

(1) As to any evidence taken by affidavit by the production of copies as such affidavits ;

(2) As to any evidence given orally, by the production of copies of the Judge's notes, or such other material as the Court may deem expedient. (E. 875.)

514. No interlocutory order, or rule shall operate so as to bar or prejudice the Court from giving such decision on the appeal as may be just. (E. 878.)

515. No notice of appeal shall operate as a stay of execution or of proceedings, under the decision appealed from or objected to, except so far as the Judge appealed from, or the Court, may order, and no intermediate act or proceeding shall be invalidated, except so far as the Court may direct. Such deposit or other security shall be made or

given as may be directed by the Court or Judge, otherwise the motion of appeal shall not be heard but be dismissed. (E. 880 in part.)

516. Where any application ought to be made to, or any jurisdiction exercised, or any act done by the Judge by whom a cause or matter has been tried or heard, if such Judge die or cease to be a Judge of the Court, or if for any other reason it shall be impossible or inconvenient that such Judge should act in the matter, the presiding Judge may either by a special order in any cause or matter, or by a general order applicable to any class of causes or matters, nominate some other Judge to whom such applications may be made or by whom such jurisdiction may be exercised. (E. 885.)

517. A judgment, order, decision, rule or verdict appealed from, or sought to be set aside, shall stand as if no notice of appeal, or notice of motion to set the same aside had been made or given, if the cause or matter in which the same was made or given be not entered for argument on the first entry day after such notice, or if the motion of which such notice has been given be not made when the cause or matter is called, unless such default in the moving party be waived by the other parties interested, or unless the Court shall otherwise order.

#### COSTS.

518. Subject to the provisions of this Ordinance, the costs of and incident to all proceedings in the Supreme Court, including the administration of estates and trusts, and compensation or allowance to any executor, administrator, guardian, committee, receiver, or trustee, shall be in the discretion of the Court or Judge: provided that nothing herein contained shall deprive an executor, administrator, trustee, or mortgagee, who has not unreasonably instituted, or carried on, or resisted any proceedings of any right to costs out of a particular estate or fund, to which he would otherwise be entitled.

Provided also that where any action, cause, matter or

issue is tried with a jury, the costs shall follow the event unless the judge by whom such action, cause, matter, or issue is tried, or of the Court, shall for good cause otherwise order. (E. 966.)

519. When issues in fact and law are raised upon a claim or counterclaim, the costs of the several issues respectively, both in law and fact, shall, unless otherwise ordered, follow the event.

520. When the plaintiff in any action resides out of the Territories, and the defendant, by affidavit of himself or his agent, alleges that he has good defence on the merits to the action, the defendant shall be entitled to a summons to show cause why an order should not issue, requiring the plaintiff, within three months (or such other or further time as the Court or Judge may deem right), from the service of the order to give security for the defendant's costs, and staying all further proceedings in the meantime, and directing that in default of such security being given the action be dismissed with costs unless the Court or Judge on special application for that purpose shall otherwise order.

521. In any case or matter in which security for costs is required, the security shall be of such amount, and be given at such times and in such manner and form as the Court or Judge may direct. (E. 981.)

522. Where a bond is given as security for costs, it shall unless the Court or Judge shall otherwise direct, be given to the party or person requiring the security, and not to an officer of the Court. (E. 982.)

523. Where the Court or Judge appoints one of the advocates of the Court to be guardian *ad litem* of an infant or person of unsound mind, the Court or Judge may direct that the costs to be incurred in the performance of the duties of such office shall be borne and paid either by the parties or some one or more of the parties, to the cause or matter in which such appointment is made, or out of any fund in Court in which such infant or person of unsound mind may be interested, and may give directions for the



repayment or allowance of costs as the justice and circumstances of the case may require. . (E. 988.)

524. In all cases and proceedings, as also upon interlocutory applications, where a party becomes entitled to costs from any other party, the same shall be taxed by the Clerk in accordance with the authorized tariffs, unless the Court or Judge by order directs the payment of a sum in gross in lieu of taxed costs and by and to whom such sum in gross shall be paid.

#### FEES.

525. ~~There shall be paid to each sheriff and Clerk.~~ the fees prescribed by the Judges of the Supreme Court; and for any necessary services performed not so prescribed, such fees as may be authorized by the Judge.

526. If in any case it shall appear to the Court or a Judge that costs have been improperly or without any reasonable cause incurred, or that by reason of any undue delay in proceeding under any judgment or order, or of any misconduct or default of the advocate, any costs properly incurred have nevertheless proved fruitless to the person incurring the same, the Court or Judge may call on the advocate of the person by whom such costs have been so incurred to show cause why such costs should not be disallowed as between the advocate and his client, and also (if the circumstances of the case shall require) why the advocate should not repay to his client any costs which the client may have been ordered to pay to any other person, and thereupon may make such order as the justice of the case may require.

527. One day's notice of taxing costs, together with a copy of a bill of costs and affidavit of increase (if any), shall be given by the advocate of the party whose costs are to be taxed to the other party or his advocate, in all cases where a notice to tax is necessary.

528. Notice of taxing costs shall not be necessary in any case where the defendant has not appeared in person, or by his advocate or guardian.

529. Any party who may be dissatisfied with the allowance or disallowance by the Clerk in any bill of costs taxed by him of the whole or any part of the item or items may on two days' notice to the opposite party, specifying the item or items objected to, apply to a Judge in Chambers to review the taxation.

530. Such application shall be heard and determined by the Judge upon the evidence which shall have been brought in before the Clerk, and no further evidence shall be received unless the Judge shall otherwise direct.

531. A copy of the tariff of Clerk's and Sheriff's fees shall be posted in some conspicuous place in the Clerk's and Sheriff's offices respectively.

532. Witnesses, jurors and interpreters and parties shall be entitled to the fees and remuneration named in the tariff of witnesses', jurors' and interpreters' fees appended to this Ordinance.

533. All fees and allowances respectively payable under the said tariffs shall be paid in advance by the parties at whose instance the service is to be rendered, but in cases where the amounts are impossible of ascertainment for any reason, then an amount, approximated by the officer or fixed by the Judge, shall be deposited or paid to be accounted for when the correct amount is ascertained.

534. In all causes and matters in which duly enrolled advocates, holding certificates as such, and resident in the Territories, are employed, they shall be entitled to charge, and be allowed such fees as may be from time to time prescribed by the Judges of the Supreme Court.

535. The Court *in banc* may, by order, regulate fees for services performed by the registrars and other officers of the Court, as also fees to counsel and advocates practising therein.

536. In every contested case, so soon as an order has been made for setting the same down for trial, as provided by this Ordinance, and the case is set down for trial, the

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party at whose instance the said order has been made shall pay to the Clerk, when the amount in dispute is under one hundred dollars, two dollars, and in all other cases, four dollars, as the setting down and hearing fee,—of which sum when so paid, the Clerk shall pay over to the Sheriff one half, as and for his fee in the premises.

## FORMS.

537. The forms contained in the Appendix to this Ordinance shall be used in and for the purposes of the Clerk's office, with such variations as circumstances may require: and as to all other matters the forms used in the administration of civil justice in England, with such variations as will make them respectively applicable to proceedings in the Supreme Court of the Territories, whether in banc or otherwise, may be used.

## MISCELLANEOUS.

538. All actions and prosecutions to be commenced against any person for anything purporting to be done in pursuance of his duty as a public officer (unless otherwise ordered by the Judge) shall be commenced and tried in the district wherein the act was committed, and must be commenced within six months after the act was committed, and not otherwise, and notice in writing of such action and of the cause thereof must be given to the defendant one month at least before the commencement of the action.

539. If in any cause or matter relating to any real estate, in respect of which the Court has power to order a sale, it shall appear necessary or expedient that the real estate, or any part thereof, should be sold, the Court or Judge may order the same to be sold, in such way and on such terms as may be considered proper, and any party bound by the order and in possession of the estate, or in receipt of the rent and profits thereof shall be compelled to deliver up such possession or receipt to the purchaser or other person as may be thereby directed. (E. 680.)

540. Non-compliance with any of the provisions of this Ordinance shall not render any proceedings void unless the Court or a Judge shall direct, but such proceedings may be

set aside either wholly or in part as irregular or amended, or otherwise dealt with in such manner and upon such terms as the Court or Judge may think fit.

541. No application to set aside any proceeding for irregularity shall be allowed unless made within reasonable time, nor if the party applying has taken any fresh step after knowledge of the irregularity.

542. When an application is made to set aside proceedings for irregularity, the several objections intended to be insisted upon shall be stated in the summons or notice of motion.

543. When a summons is taken out to set aside any process or proceeding for irregularity with costs, and the summons is dismissed generally without any special direction as to costs, it is to be understood as dismissed with costs.

#### ALIAS AND CONCURRENT WRITS.

544. The expiry of any writs or process without service or execution shall not abate the suit, but the suit may be continued by the issue of *alia* or *pluries* writs or process as may be necessary, ~~and concurrent writs of summons may always be issued.~~

#### COMMISSIONERS FOR TAKING AFFIDAVITS.

545. All duly enrolled advocates of the Territories shall be commissioners for taking affidavits in the said Territories.

(1) The Lieutenant-Governor may by a commission or commissions under his hand and seal, from time to time empower such and so many persons as he thinks fit and necessary to administer oaths and take and receive affidavits, declarations and affirmations within the Territories.

546. The Lieutenant-Governor may, by a commission or commissions under his hand and seal, from time to time



empower such and so many persons as he thinks fit and necessary to administer oaths and take and receive affidavits, declarations and affirmations without the Territories in or concerning any cause, matter or thing depending or in any wise concerning any of the proceedings to be laid in the Supreme Court of the Territories, and every oath, affidavit, declaration or affirmation taken or made as aforesaid shall be as valid and effectual and shall be of the like force and effect to all intents and purposes, as if such oath affidavit, declaration or affirmation had been administered, taken, sworn, made or affirmed before a commissioner for taking affidavits within the Territories or other competent authority of the like nature.

(a) The commissioners so appointed shall be styled commissioners for taking affidavits in and for the Supreme Court of the Territories.

#### PROCESS ISSUERS.

547. In any section of the Territories where the convenience of the public may be the better served, the Clerk, with the approval of the Judge, may also appoint a process issuer, who, being supplied with blank forms of original and *mesne* processes signed by the Clerk, may issue the same under his direction from time to time, such process-issuer countersigning each one so issued and making returns of all processes so issued to the Clerk, as required by the Clerk, or as directed by the Judge, and in such cases, the Clerk and his sureties shall be responsible for all the acts and omissions of such issuer.

#### LAWS OF EVIDENCE.

548. Subject to the provisions of any Act of the Parliament of Canada, and of any Ordinance, the laws of evidence, which govern in the administration of civil justice in England, shall obtain in the Courts.

#### MINORS.

549. Minors may sue for wages in the same way as if of full age.

## SITTINGS ADJOURNED.

550. Whenever from illness or other cause, the Judge who should hold a sitting of the Court fails to attend at the time appointed therefor, the Clerk, at three o'clock in the afternoon of the day so appointed, shall adjourn such sitting by proclamation to some hour on the following day to be by him named, and so on from day to day (but not exceeding three days) until the Judge who is to hold such sitting as aforesaid is able to hold the same, or until he receives other directions from such Judge: but if after the expiration of the said period of three days the said Judge has not arrived, or be still unable to attend, or he be otherwise directed, the Clerk shall adjourn the Court to the next regular sitting of the same, and report his action thereon to the Lieutenant-Governor.

## SERVICE OF PLEADINGS, ETC.

551. Service of pleadings, notices, summonses, orders, rules and other proceedings, except writs of summons, attachment and replevin, shall be effected before six o'clock in the afternoon; service effected after six o'clock in the afternoon shall, for the purpose of computing any period of time subsequent to such service, be deemed to have been effected on the following day, and on Saturday the following Monday. (E. 971 in part.)

552. In any case in which any number of days, not expressed to be clear days, is prescribed in this Ordinance, the same shall be reckoned exclusively of the first day and inclusively of the last day. (E. 972.)

553. Where any limited time less than six days from or after the date or event is appointed or allowed for doing any act or taking any proceeding, the days on which the offices are closed under the provisions of this Ordinance shall not be reckoned in the computation of such limited time.

554. Where the time for doing any act or taking any proceeding expires on a Sunday, or other day on which the offices are closed, and by reason thereof such act or proceed-

ing cannot be done or taken on that day, such act or proceeding shall, so far as regards the time of doing or taking the same, be held to be duly done or taken if done or taken on the day on which the offices shall next be open.

555. The Court or a Judge shall have power to enlarge or abridge the time appointed by this Ordinance, or fixed by any order enlarging time, for doing any act or taking any proceeding, upon such terms (if any) as the justice of the case may require, and any such enlargement may be ordered although the application for the same is not made until after the expiration of the time appointed or allowed.

#### PROCEDURE IN CASES NOT PROVIDED.

556. Subject to the special provisions of this Ordinance, the procedure and practice existing in the Supreme Court of Judicature in England at the time of the coming into force of this Ordinance, shall, as nearly as may be, be held to be incorporated herewith.

#### BOOKS AND FORMS.

557. All necessary books and forms required for use in the Clerk's office shall be supplied out of the General Revenue Fund of the Territories, and the same shall be the property of the Government of the said Territories.

#### VACATION.

558. There shall be a vacation to extend from the <sup>thirty-first</sup> ~~fourteenth~~ day of July to the <sup>thirtieth</sup> ~~fifteenth~~ day of September, inclusive of both days, in each year. During vacation no contested business shall be transacted, and neither party to a suit, in which an appearance has been entered, shall be compelled to deliver any pleading. If the time for delivering a defence in a cause, in which the defendant has appeared, has not expired previous to the fifteenth day of July, it shall, without any order to that effect, stand extended until the expiration of five days after the last day of vacation, *provided that notice of motion to set actions down for trial may be given and heard during vacation.*

559. Nothing in the preceding Section contained shall

prevent the issue of process or the transaction of any business, which may be done *ex parte* or the entering of judgment by default in any suit in which no appearance is entered, <sup>or the taxation of costs</sup> or interfere with the hearing during vacation of any cause or matter, if a Judge so directs, nor shall this rule affect the validity of any proceedings had or taken during vacation by order of the Court or a Judge authorizing such proceedings to be had or taken notwithstanding the vacation.

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## APPENDIX.

## FORM A.

IN the Supreme Court of the North West Territories.  
District.

Victoria by the Grace of God of the United Kingdom of Great Britain  
and Ireland, Queen, Defender of the Faith, &c., &c., &c.

To \_\_\_\_\_ of (giving Defendant's address)

You are notified that \_\_\_\_\_ has entered an action  
against you for the recovery of the claim or demand; a statement of  
which is filed in Court and annexed to this summons;

And you are notified that if you dispute the said claim either in  
whole or in part, you do within \_\_\_\_\_ days from the service of this  
writ on you, exclusive of the day of such service, cause to be entered  
for you in the office of the Clerk of this Court a notice of dispute;

And take notice that if you enter such notice of dispute you will  
receive from the Clerk of the Court a registered letter directed to the  
address given by you in your notice of dispute \_\_\_\_\_ days' notice of  
the time and place at which this action will be tried.

And take notice that in default of your so doing, judgment may be  
entered against you without further notice to you.

Issued at \_\_\_\_\_ the \_\_\_\_\_ day of \_\_\_\_\_ A.D., 18\_\_\_\_

## FORM B.

## NOTICE OF TRIAL.

In the Supreme Court of the North-West Territories,  
District.

BETWEEN \_\_\_\_\_

and \_\_\_\_\_

Plaintiff.

Defendant.

You are hereby notified to be and appear at the Sittings of this Court  
to be holden at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_  
A D. 18\_\_\_\_ at the hour of \_\_\_\_\_ o'clock in  
noon, when this action will be tried.

And take notice that if you do not so appear judgment may be given  
against you by default with costs.

Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ 18\_\_\_\_

To  
the above named \_\_\_\_\_

Clerk of the Court.

## CLERK'S AND SHERIFF'S OATH OF OFFICE.

I, \_\_\_\_\_ do swear that I will truly and faithfully perform the several duties of Clerk of the Supreme Court of the North West Territories, \_\_\_\_\_ District, or of Sheriff of the Judicial District to which I have been appointed, without fear, favour, or malice. So help me God.

Sworn to before me, at  
in the North West Territories, this  
day of \_\_\_\_\_ A.D. 18 \_\_\_\_\_

## WRIT OF SUMMONS.

In the Supreme Court of the North-West Territories,

Between  
of (residence) \_\_\_\_\_ and \_\_\_\_\_ Plaintiff,  
of (residence) \_\_\_\_\_ Defendant.

Victoria (or the name of the reigning Sovereign, as the case may be).  
by the Grace of GOD of the United Kingdom of Great Britain and Ireland,  
QUEEN, (or as case may be), Defender of the Faith, &c., &c., &c.

To the above-named Defendant :

You are notified that the plaintiff has entered an action against you, in the above named Court, for the recovery of the claim or demand, a statement of which is filed in Court and annexed to this summons.

And you are commanded that if you dispute the said claim, either in whole or in part, you do, within ten days from the service of this writ on you, exclusive of the day of such service, cause to be entered for you, in the office of the Clerk of this Court, an appearance, and within six days thereafter file with the Clerk a Statement of the grounds on which such dispute is based.

And take notice, that, in default of your so doing, the plaintiff may proceed in his said action, and judgment may be given in your absence and without further notice to you.

Issued at \_\_\_\_\_ the \_\_\_\_\_ A.D. 18 \_\_\_\_\_

*Memoranda to be endorsed on writ.*

N.B.—This writ is to be served within twelve months from the date thereof, or, if renewed, within six months from the day of the last renewal, including the day of such date, and not afterwards.

This writ was issued by the plaintiff who resides at \_\_\_\_\_ and (if residence over three miles from Clerk's office) whose "Address for Service" is at \_\_\_\_\_

Or, This writ was issued by \_\_\_\_\_ of \_\_\_\_\_ advocate for the plaintiff, whose "Address for Service" (if the advocate's office is over three miles from the Clerk's office) is at \_\_\_\_\_

## WRIT OF ATTACHMENT.

In the Supreme Court of the North-West Territories,

District.

Between

of  
and

Plaintiff.

of

Defendant.

VICTORIA, (or the name of the reigning Sovereign, as the case may be),  
by the Grace of GOD of the United Kingdom of Great Britain and  
Ireland, QUEEN, (or as the case may be) Defender of the Faith, &c.,  
&c., &c.

To the Sheriff of the

District.

You are commanded to attach, seize and safely keep all the personal  
estate, credits and effects, together with all evidences of title, debts,  
books and book accounts or other documents, vouchers, or papers belong-  
ing thereto or otherwise, of the above-named defendant, to secure  
and satisfy the plaintiff the sum of \_\_\_\_\_, with his costs of  
action, and to satisfy the debt and demand of such other creditors of the  
said defendant as shall duly (within the time allowed by law) sue out their  
writs of attachment and prosecute the same to judgment.

And we command you, the said Sheriff, that so soon as you shall have  
executed this Writ you do return the same with an affidavit of service,  
and a certificate of your action thereunder.

Issued at

this

day of

A.D., 18

Clerk of the Court.

## WRIT OF REPLEVIN.

In the Supreme Court of the North-West Territories.

District.

Between

of  
and  
of

Plaintiff.

Defendant.

VICTORIA, (or the name of the reigning Sovereign, as the case may be),  
by the Grace of GOD of the United Kingdom of Great Britain and  
Ireland, QUEEN, (or as the case may be) Defender of the Faith, &c.,  
&c., &c.

To the Sheriff of the

District.

You are hereby commanded without delay to cause to be replevied to  
the plaintiff his goods, chattels, and personal property following, that is  
to say:

which the said \_\_\_\_\_ alleges to be of the value of  
dollars, and which the defendant hath taken and unjustly detains (or un-  
justly detains as the case may be) in that behalf.

Issued at  
this

day of

A.D. 18

Clerk of the Court.

## BOND FOR REPLEVIN.

Know all men by these presents, that we, A. B., of

E. F., of

and G. H., of

are jointly and severally held and firmly bound to the Sheriff of the \_\_\_\_\_ District, in the sum of \_\_\_\_\_ dollars of lawful money, to be paid to the said Sheriff, his successor in office, or either of their assigns. For which payment well and truly to be made, we bind ourselves, and each and every of us in the whole, our and every of our heirs, executors, and administrators, firmly by these presents, sealed with our seals, dated this \_\_\_\_\_ of \_\_\_\_\_ one thousand eight hundred and \_\_\_\_\_

Whereas the said A.B. has obtained a Writ of Replevin against C.D. to obtain possession of certain cattle (or goods) to wit:

which the said A.B. asserts to be his property.

Now, the condition of this obligation is such that if the said A.B. shall not prosecute his suit in which the said writ is issued with effect and without delay, or if suit is carried on and continued between the said A.B. and C.D. touching the property of the said cattle (or goods) and the Court shall adjudge that the said cattle (or goods) shall be restored to the said C.D. with damages for detaining the same, then if the said A.B. shall restore the said cattle (or goods) and pay and satisfy any judgment that may be obtained against him, this bond shall become void.

Signed, sealed and delivered  
in the presence of

}

L. S.  
L. S.  
L. S.

*(When the plaintiff himself does not join in the bond, the form must be altered to conform to the fact).*



## WRIT OF EXECUTION.

In the Supreme Court of the North-West Territories.

District.

Between

Plaintiff,

and

Defendant.

VICTORIA, (or the name of the reigning Sovereign, as the case may be),  
 by the Grace of God of the United Kingdom of Great Britain and  
 Ireland, QUEEN, (or as the case may be) Defender of the Faith, etc.,  
 etc., etc.

To the Sheriff of the

District.

You are commanded that of the goods (or lands, as the case may be)  
 of \_\_\_\_\_ in the \_\_\_\_\_ Judicial District,

you cause to be made \_\_\_\_\_ dollars and \_\_\_\_\_ cents,  
 which \_\_\_\_\_  
 \_\_\_\_\_ lately by the judgment (or order as the  
 case may be), of the said Court recovered against him  
 and that you have the said money, and  
 in what manner you shall have executed this writ, make appear to the  
 said Court at \_\_\_\_\_, immediately after the execution  
 thereof, before the said Court at \_\_\_\_\_ together with this  
 writ.

Issued at

this

day of

A.D. 18

Clerk of the Court.

## GARNISHEE SUMMONS.

In the Supreme Court of the North-West Territories,

District.

Between \_\_\_\_\_ of \_\_\_\_\_ Plaintiff,  
and \_\_\_\_\_  
of \_\_\_\_\_ Defendant,  
and \_\_\_\_\_  
of \_\_\_\_\_ Garnishee.

You are hereby notified that a suit has been entered in this Court in which the Plaintiff claims of the Defendant the sum of \_\_\_\_\_ as shown by his statement of claim filed in Court, a copy of which is hereto annexed, or, you are hereby notified that the Plaintiff has recovered a judgment in this Court against the Defendant, for \$ \_\_\_\_\_ and it is alleged on affidavit filed, that you are indebted to the said Defendant.

And you are required within ten days from the service hereof, to appear at the Clerk's office, and state in writing whether or not you owe any, and if so what debt to the Defendant, and why you should not pay the same into Court to the extent of the Plaintiff's claim and costs.

Issued at \_\_\_\_\_ this \_\_\_\_\_  
day of \_\_\_\_\_ A.D. \_\_\_\_\_

To be indorsed same as a Writ of Summons.

## WITNESSES', JURORS' AND INTERPRETERS' FEES.

Witnesses and Jurors may be allowed the following fees:—

|                                                                                                                                        |        |
|----------------------------------------------------------------------------------------------------------------------------------------|--------|
| For every day necessarily absent from residence, in going, to staying at,<br>and returning from trial <i>or other proceeding</i> ..... | £ 1.00 |
| When residence is within two miles of place of trial .....                                                                             | 2.00   |
| When over two miles .....                                                                                                              | 10     |
| For every mile necessarily travelled by other means than railway .....                                                                 |        |
| When railway used, actual fare paid.                                                                                                   |        |
| Professional men, when acting professionally, in addition to mileage<br>as other witnesses, per day .....                              | 5.00   |

## INTERPRETERS.

|                                                                                                                                   |      |
|-----------------------------------------------------------------------------------------------------------------------------------|------|
| Interpreters may, when used, be allowed the same mileage as witnesses,<br>and for each day actually engaged as interpreters ..... | 2.00 |
|-----------------------------------------------------------------------------------------------------------------------------------|------|

## NO. 7 OF 1893.

AN ORDINANCE TO AMEND CHAPTER 46 OF  
THE REVISED ORDINANCES, 1888, INTITUL-  
ED "AN ORDINANCE RESPECTING PART-  
NERSHIP."

[Assented to 16th September, 1893.]

The Lieutenant-Governor, by and with the advice and consent of the Legislative Assembly of the Territories, enacts as follows:—

1. Section 1 of "An Ordinance respecting Partnership" is hereby amended by striking out the words "Registrar of Deeds of the Land Registration District" and substituting therefor the following words:—"Registration Clerk of the Registration District for the registration of mortgages and other transfers of personal property in the Territories."

2. Wherever the word "Registrar" occurs in the said Ordinance the same is hereby struck out and the words "Registration Clerk" are substituted therefor.

3. Forms A and D of the said Ordinance are hereby amended by striking out the words "Land Registration District of" where they occur therein.

4. The provisions of this Ordinance shall not apply to co-partnerships already registered until the first day of January, A.D., 1894.



## NO. 8 OF 1893.

AN ORDINANCE TO AMEND AND CONSOLIDATE  
AS AMENDED "THE GAME ORDINANCE."

[Assented to 16th September, 1893.]

The Lieutenant-Governor, by and with the advice and consent of the Legislative Assembly of the Territories, enacts as follows:—

1. This Ordinance may be cited as "The Game Ordinance."

2. No elk, moose, cariboo, antelope, deer, or their fawn, mountain sheep or goat, shall be hunted, taken or killed between the first day of February and the first day of September in any year.

(1) Provided always that no person shall be allowed to kill or take more than six head of the aforesaid animals in any one season, except for the purpose of food for himself or his family.

3. No person shall fire at, hunt, take or kill, in any year:

(1) Any buffalo;

(2) Any grouse, partridge, pheasant or prairie chicken, between the first day of January and the first day of September;

(3) Any kind of wild duck, between the fifteenth day of May and the twenty-third day of August;

(4) Any plover, snipe and sandpiper between the first day of January and the first day of August.

4. No person shall, at any time, disturb, injure, gather or take the eggs of any species of wild fowl or birds mentioned in this Ordinance.

5. None of the contrivances for the taking or killing of the wild fowl known as swans, geese or ducks, which are described as swivel guns, batteries, sunken punts or night lights shall be used at any time, nor shall any person use grain, seed or other description of food steeped in opium, alcohol or other narcotics, for the purpose of stupifying and capturing any species of wild fowl, except geese.

6. No person shall hunt, trap, or kill in any year :

(1) Any mink, fisher or martin between the fifteenth day of April and the first day of November ;

(2) Any otter or beaver between the fifteenth day of May and the first day of October ;

(3) Any muskrat between the fifteenth day of May and the first day of November.

7. No bird named in the foregoing Sections, except geese, shall be taken or killed at any time by means of any rope, snare, spring, cage, net or trap. And no engine shall be at any time for such purpose placed, constructed, erected or set, either wholly or in part : and any person finding any rope, snare, spring, cage, net or trap or engine so placed, constructed or set may take possession of or destroy the same without such person thereby incurring any liabilities therefor.

8. No person, except as hereinafter mentioned, shall have in his possession, custody or care, any animal or bird already mentioned, or any part of the carcass of such animal or bird, with the exception of the skin, during the period in which by this Ordinance the killing thereof is prohibited or which appears to have been killed by any of the means forbidden by this Ordinance, but every such animal or bird or any portion or portions thereof may be bought or sold, when lawfully taken. Possession of any animal or bird by any person in the close season, except as otherwise provided in this Ordinance, shall be deemed *prima facie* evidence that the same was illegally taken.

9. The Lieutenant-Governor-in-Council may appoint guardians having the power of constables, to enforce the

provisions of this Ordinance. . And every such guardian so appointed shall forthwith seize the carcasses of any animals or birds mentioned in the preceding Section, or any portion thereof, found by him in the possession or custody of any person during any forbidden period or which appears to him to have been taken or killed during such period, or by any of the illegal means set forth herein, and bring them before the nearest Justice of the Peace, who, unless the person, in whose possession the said carcasses are found, establishes to the satisfaction of the said Justice by his oath or otherwise that the provisions of this Ordinance in that respect have not been contravened, shall declare them confiscated either in whole or in part.

10. All animals or birds, or portions of animals or birds so confiscated, shall belong to the guardian.

11. No person or corporation shall at any time or in any manner export or cause to be exported or carried out of the limits of the North-West Territories any grouse, partridge, pheasant, prairie chicken, elk, moose, cariboo, antelope or their fawn, except as provided for in Section 14 of this Ordinance.

12. Any violation of any of the provisions of this Ordinance shall be an offence punishable on summary conviction before a Justice of the Peace; as respects killing or taking of buffalo, with a fine not exceeding \$100.00; and as respects any other violation of this Ordinance, with a fine not exceeding \$50.00, with costs of prosecution, in all cases half of which fine shall be paid to the informer on his demand therefor and the other half shall be paid into the General Revenue Fund of the North-West Territories; but if the informer makes no demand for half of the fine at or before the conclusion of the trial, then the whole of the fine shall be paid into the General Revenue Fund of the North-West Territories. And on non-payment of such fine and costs forthwith after conviction the offender shall be imprisoned in the nearest goal for a period not exceeding two months.

13. No prosecution shall be brought after three calendar months from the day of the committing of the offence charged.

14. The Lieutenant-Governor-in-Council after application being made to him by any person as hereinafter provided may grant such person written permission to procure birds or eggs for scientific purposes during the close season.

(1) Every such application shall state the kind and number of birds or eggs required, and the special scientific purposes for which such birds or eggs are intended, and every application shall be verified by affidavit or declaration of the applicant.

15. Notwithstanding anything hereinbefore contained any traveller, family or other person in a state of actual want may kill any bird or animal herein mentioned, and take any egg or eggs hereinbefore referred to, for the purpose of satisfying his immediate want, but not otherwise.

16. No person shall at any time offer for sale, barter or exchange, any prairie chicken that has been caught or killed by any person other than himself.

17. No person, who is not a resident of the Territories, shall hunt, take or kill any of the aforesaid animals or birds unless he has obtained from the Lieutenant-Governor-in-Council a license on payment of Five dollars, which license shall expire on the fifteenth day of May in each year. Such license shall only bestow the right to take, hunt or kill as limited by this Ordinance.

(a) Provided that a License may be granted to a Guest of any resident of the Territories free of charge for a term not exceeding five days.

(b) Provided always that the Lieutenant-Governor-in-Council may authorize such persons as he shall think fit to issue such Licenses.

18. All members of the North-West Mounted Police Force shall be *ex officio* Game Guardians under the provisions of this Ordinance.



19. This Ordinance shall only apply to such Indians as it is specially made applicable to in pursuance and by virtue of the powers vested in the Superintendent General of Indian Affairs of Canada by Section 133 of The Indian Act, as enacted by 53 Victoria, Chapter 29, Section 10.

20. Ordinance No. 19 of 1892 is hereby repealed.

·NO. 9 OF 1893.

AN ORDINANCE TO ENFORCE THE DESTRUCTION  
OF NOXIOUS WEEDS.

*(Assented to 16th September, 1893.)*

The Lieutenant-Governor, by and with the advice and consent of the Legislative Assembly of the Territories, enacts as follows :—

1. When used in this Ordinance the expression “Noxious Weeds” shall mean French or Stink Weed, Canada Thistle, Tumble Weed or Hedge Mustard, Common Mustard, Wild Oats or Russian Thistle.

2. Every owner or occupier of land shall cause to be cut down, or otherwise destroyed, all noxious weeds growing thereon so often in each year as is necessary to prevent them going to seed, and if any owner or occupier allows noxious weeds to grow and the seed thereon to ripen, he shall be liable, on summary conviction before a Justice of the Peace, to a fine of not more than twenty-five dollars for every such offence, with costs of prosecution.

3. When it is made known to a Justice of the Peace that the owner of unoccupied land neglects or refuses to cut down and destroy the noxious weeds growing on his land, the Justice may give notice in writing to the owner, or any agent or employee of the owner (and in case of property of a Railway Company, the notice shall be given to any station master of the Company), requiring him to cut down and destroy the same within five days from the service of such notice.

(a) In case such owner or any agent or employee of the owner or station master refuses or neglects to cut down or destroy the noxious weeds within the period aforesaid, then the Justice may cause the noxious weeds to be cut down and destroyed at the owner's expense, and the cost of doing such work shall be recoverable from the owner, by way of penalty, before any Justice of the Peace.

(b) When the owner of unoccupied land resides outside of the North-West Territories the cost of cutting the noxious weed shall be paid out of the District Vote.

4. Any person who sells, or offers to sell, seed grain or grass seed containing any noxious weeds seed shall, for every such offence upon summary conviction before a Justice of the Peace, be liable to a fine of not more than \$20.00 and cost of prosecution.

NO. 10 OF 1893.

AN ORDINANCE RESPECTING INFECTIOUS  
DISEASES OF ANIMALS.*(Assented to 16th September, 1893.)*

The Lieutenant-Governor, by and with the advice and consent of the Legislative Assembly of the Territories, enacts as follows:—

1. The Lieutenant-Governor-in-Council may, whenever he considers it necessary, appoint one or more Veterinarians defining in such appointments the district or limits within which each such veterinary surgeon shall exercise the powers by Law imposed on him.

2. The expression "Veterinarian" shall be construed to mean the District Veterinarian appointed by the Lieutenant-Governor-in-Council under this Ordinance unless a contrary intention shall appear.

3. The owner or any person having in charge any horse or other animal which is or appears to be affected with Glanders or Farcy shall not allow said horse or other animal to run at large.

4. Any horse, or other animal, which is or appears to be affected with Glanders or Farcy shall be at once removed by the owner or the person in charge of the same to some secure enclosure, where contact with any horse or mule, by reaching over or through the fence of said enclosure, will be impossible, and the owner or person in charge shall with all practicable speed give notice to the Lieutenant-Governor-in-Council of the supposed existence of the disease.

5. Every person who is owner or part owner of, or has in his charge any horse or other animal affected or under reasonable suspicion of being affected with Glanders or Farcy, who neglects or refuses to remove or so enclose such animal,



as hereinbefore provided shall be liable, upon summary conviction for every such offence, to a penalty not exceeding one hundred dollars and costs of prosecution.

6. Any Veterinarian shall make such inspection as may be ordered by the Lieutenant-Governor-in-Council from time to time.

7. Any Veterinarian shall on receipt of such notice from the Lieutenant-Governor-in-Council at once inspect the said animal and if found to be affected or if there is reasonable suspicion that the animal is affected with Glanders he shall issue such order as he may deem necessary for the destruction or quarantining of such animal.

8. When the destruction of an animal is found necessary, the Veterinarian must, in writing, notify the owner or person in charge to kill and burn, bury or otherwise dispose of the body as directed.

9. Any owner or keeper of any such animal so affected or under reasonable suspicion of being affected with Glanders or Farcy neglecting or refusing to obey the order of the Veterinarian or interfering with the Veterinarian whilst in discharge of his duty shall be liable, upon summary conviction before a Justice of the Peace, to a fine not exceeding one hundred dollars and costs of prosecution.

10. In any case in which an owner or any other person may fail to carry out the provisions hereof in reference to the killing or disposal of animals, the work shall be done under the directions of the Veterinarian for the District, at the expense of the person whose duty it may have been to perform such killing and disposal, and the cost of doing such work shall be recoverable by way of penalty from the person so in default, before any Justice of the Peace.

11. The yard, shed, stable or other premises in which any animal affected with Glanders or Farcy has been kept while so affected, or in which such animal has died or has been slaughtered, also the harness used upon such animal or animals shall be thoroughly cleansed and disinfected by the occupier thereof,

in a manner directed by a Veterinarian; and all hay, litter, dung or other article that has been in contact with or used about any such animal, shall be burnt or buried to the satisfaction of the Veterinarian.

12. In case the owner, upon being notified of the decision of the Veterinarian that a horse is glandered, objects to such decision, the Veterinarian shall, on being notified of such objection, quarantine such horse upon the premises and at the expense of the owner, who shall immediately cause an examination of the horse to be made by some other qualified Veterinary Surgeon, who shall, within ten days of such examination by the said Veterinary Surgeon, give his opinion in writing, by serving the same upon the said Veterinarian, and should such opinion coincide with that of the Veterinarian the horse shall forthwith be destroyed, but if the said opinions do not coincide then the Veterinarian and the Veterinary Surgeon shall choose another Veterinarian who shall inspect the diseased animal, and a majority shall decide as to the condition of the diseased animal.

13. Where it is known that one or more animals of any herd of horses is affected with Glanders or Farcy it shall be the duty of the owner of such herd, and of the Veterinarian, to cause the apparently unaffected animals of such herd to be kept within enclosures or limits to be prescribed by such Veterinarian, at the owner's expense, and the same shall remain within such limits or enclosures until released therefrom by such Veterinarian.

14. Whenever it shall appear to a Veterinarian that any horse or mule is affected with Glanders or Farcy, he shall forthwith notify the owner, or other person in charge thereof, of such disease and shall take such action as he may deem necessary.

15. Any person who sells or disposes of, or puts off, or offers or exposes for sale, or attempts to dispose of or put off any animal infected with Glanders or Farcy, or any animal respecting which there is cause for suspicion that such animal is infected with any contagious disease, whether such person is the owner of such animal or not, shall for every

such offence incur a penalty of not exceeding two hundred dollars.

16. Upon a report of a Veterinarian respecting an animal running at large, affected with Glanders, of which the owner, on reasonable enquiry, cannot be found, the Lieutenant-Governor-in-Council may forthwith order the destruction of such animal.

17. The Lieutenant-Governor-in-Council may, at any time, order an inspection of all horses and mules and livery, feed and sale stables within any area described in such order, by a Veterinarian; the cost thereof to be paid out of the General Revenue Fund of the Territories.

18. The keeper of every livery, feed and sale stable in the North-West Territories shall, in each and every year in the month of April and in the month of October, thoroughly cleanse all the stalls, mangers and feed boxes in such stable by thoroughly washing the same with soap and hot water and immediately afterwards thoroughly applying to every part of same a solution of Carbolic Acid in the following proportions, namely, one part of acid to twenty parts of water. The keeper of any such stable who shall fail during each of the months aforesaid in any year to cause such cleansing and white-washing to be done in a manner satisfactory to the Veterinarian shall for such default or omission, on conviction before any Justice of the Peace, be liable for the first offence to a fine of not more than ten dollars and to a penalty of not more than twenty-five dollars for every subsequent offence.

19. The owner, or any person having in charge any horse, cattle or domestic animal affected with any contagious disease shall not allow said diseased animal to run at large. Any animal affected with a contagious disease shall be at once removed by the owner or the person in charge of the same to some secure enclosure, where contact with other animals, by reaching over or through the fence of said enclosure, will be impossible, and shall be kept in such enclosure, until such animal dies or is entirely cured of such contagious disease.

20. Every person who is the owner, or part owner, or has

in his charge any animal affected with any contagious disease, who neglects or refuses to remove, or so enclose, or herd away from farms or stock, such animal as hereinbefore provided, shall be liable, on summary conviction, for every such offence, to a penalty not exceeding one hundred dollars and costs of prosecution.

21. Any Veterinarian who has been directed by the Lieutenant-Governor-in-Council to perform any services under this Ordinance shall receive such remuneration as the Lieutenant-Governor-in-Council may determine.

22. The Lieutenant-Governor-in-Council may, from time to time, make such regulations and order such inspection as to him may seem necessary.

23. Chapter 18 of The Revised Ordinances, 1888, is hereby repealed.

24. Ordinance No. 37 of 1892, intituled "An Ordinance to repeal Chapter 18 of The Revised Ordinances, 1888, respecting Infectious and Contagious Diseases of Domestic Animals," is hereby repealed.

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## NO. 11 OF 1893.

AN ORDINANCE TO AMEND ORDINANCE NO. 20  
OF 1892 INTITULED "THE AGRICULTURAL  
SOCIETIES ORDINANCE."

[Assented to 16th September, 1893.]

The Lieutenant Governor, by and with the advice and consent of the Legislative Assembly of the Territories, enacts as follows:—

1. Sub-section 2 of Section 7 is hereby amended by adding thereto the following words: "And shall be forwarded immediately to the Lieutenant-Governor-in-Council."

2. Sub-section 3 of Section 7 is hereby amended by striking out the word "Auditors" where it occurs therein and substituting therefor the word "Auditor."

3. Form B (Vide Section 9) is hereby amended by striking out the word "January" where it occurs and substituting therefor the word "December."

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## NO. 12 OF 1893.

AN ORDINANCE TO AMEND AND CONSOLIDATE  
AS AMENDED THE STATUTE LABOR AND  
FIRE ORDINANCES.

[Assented to 16th September, 1893.]

The Lieutenant-Governor, by and with the advice and consent of the Legislative Assembly of the Territories, enacts as follows:—

1. In this Ordinance the word “resident” means any owner or occupant of lands over eighteen years of age, residing in the area established or proposed to be established as a Statute Labor and Fire District, and the word “person” includes corporations, joint stock companies and partnerships.

2. Whenever the Lieutenant-Governor-in-Council is satisfied by such proof as he may require, that any Township of the Territories, no part of which is within the limits of a Municipality, contains a population of eight residents, he may cause notices to be posted up in four conspicuous places within such area, of his intention to proclaim the same a Statute Labor and Fire District after the expiration of thirty days from such posting.

(a) A Statute Labor and Fire District shall comprise one Township according to the Dominion Lands system of surveys in the North-West Territories.

(b) Provided that where the Township to be erected into a Statute Labor and Fire District adjoins a fractional Township according to the Dominion Lands system of survey, such fractional Township or a part thereof may be included in such Statute Labor and Fire District by order of the Lieutenant-Governor-in-Council.

(c) Provided further that where any Township or fractional Township, according to the Dominion Lands sys-

tem of surveys, is broken by physical features or natural obstacles such as rivers, valleys, lakes, marshes, forests or mountains so that it would be inconvenient for residents on one side of such natural obstacles to do Statute Labor on the other side thereof, that part of such Township adjoining a Township which is being erected into a Statute Labor and Fire District may be included in such Statute Labor and Fire District by order of the Lieutenant-Governor-in-Council.

(d) The Road allowances surrounding a Statute Labor and Fire District shall form part of the District.

(e) Provided that where two Statute Labor and Fire Districts adjoin, the Road Allowances between them shall be held to be part of both Districts. One or both of them shall have charge of improvements to be made upon such Road Allowances according to such mutual arrangements as may be made between them.

(f) Any Statute Labor and Fire District in which an Unincorporated Town, or part of an Unincorporated Town, is situated shall not include the said Unincorporated Town.

3. After the expiration of the thirty days named in the notice hereinbefore mentioned, the Lieutenant-Governor-in-Council, unless a majority of the residents within the Township aforesaid, by petition addressed to him, object to such formation, shall proclaim the said Township a Statute Labor and Fire District, describing the number and range of the Township, and such proclamation shall be published in the Official Gazette of the North-West Territories.

4. The Lieutenant-Governor shall thereafter appoint one of the residents within the district so erected as Returning Officer, who shall forthwith, by causing notices to be posted up in four conspicuous places within such area, call a public meeting of the residents of the district, to elect, by open voting, one of their number as Overseer. The costs of such notices and such meeting, to be afterwards defrayed out of the funds of the district as hereinafter provided.

5. Every resident voting for such Overseer shall sign a

declaration as in Form A in the Appendix to this Ordinance, and record his vote, and the land upon which he votes as provided in such Form, the order and direction of the voting being according to the discretion of the Returning Officer, but the poll shall open at 10 o'clock a.m. and remain open until noon, and any person falsely recording himself as an occupant of lands within the district shall be liable on summary conviction before a Justice of the Peace, to a fine of ten dollars and costs.

6. Immediately after the election of Overseer, as provided in the preceding Section, the Returning Officer shall make his return to the Lieutenant-Governor, accompanying it with the record of the voters, having first verified such record on oath before a Justice of the Peace, or a Notary Public, as in Form B in the Appendix to this Ordinance.

7. The Overseer shall hold office for two years from the date of his election, unless the position become vacant through death, resignation or otherwise, and upon the expiration of his term, or in the event of the position becoming so vacant, the Lieutenant-Governor shall issue his writ to such resident of the district as he may designate, for another election under the provisions of this Ordinance.

8. It shall be the duty of such Overseer to assess a road and fire district tax, as hereinafter provided, upon all male inhabitants and occupiers or owners of real estate in the district over which he is overseer.

9. Every male inhabitant, over eighteen years and under sixty, not otherwise assessed, having resided for the three months preceding assessment in the district, shall be assessed one day;

And the owner or occupant of land in the said district shall be assessed for every 160 acres two days work.

10. The Overseer shall, in each year, make out his road and fire district list in Form C of the Appendix to this Ordinance, setting down in each column, as accurately as may be after diligent enquiry, the information called for by the heading thereof.

11. The names of persons omitted from such road and



fire district list, and the new inhabitants, shall, from time to time, be added thereto, and be rated by the Overseer in the same proportion as others on such list.

12. A list of road and fire district work required to be done shall be prepared and posted up by the Overseer in eight conspicuous places within the district, at least ten days before calling out the labor.

13. The Overseer shall give ten days notice to each resident assessed to work on roads and for fire district purposes, naming in such notice where and when such person is required to work and with what implements.

14. Any person, who feels himself aggrieved by the tax assessed by the Overseer, may appeal within five days from such assessment to the nearest Justice of the Peace, whose decision thereon shall be final.

15. Every person liable to work on the highways and roads and for fire district purposes, shall work the whole number of days for which he is assessed; but every such person may elect to commute for the same, or for some part thereof, at the rate of \$1.00 per day: in which case such commutation money shall be paid to the Overseer; and the Overseer, when such land tax is paid, either in money or labor, shall write the word "paid" opposite each name or tract of land on his list.

16. Persons assessed as non-resident shall be deemed to have commuted the statute labor for which they are liable, at the rate of \$1.00 per day, and the amount of the commutation shall be a debt recoverable as such at the suit of the Overseer in any Court of competent jurisdiction.

17. Every person intending to commute for his assessment, or any part thereof, shall, within five days after he is notified to appear and work on the highways and roads and for fire district purposes, pay the commutation money for the work required of him by such notice; and the commutation shall not be considered as made until such money is paid.

18. The Overseer is empowered to require cart or waggon,

or plough, or scraper, with a pair of horses or oxen, and a man, from any person having the same within his district, who has been assessed two days or more, and who has not commuted his assessment; and any person so furnishing the same shall be credited two days for each day's service therewith.

19. Every person assessed to work on highways, and roads and for fire district purposes, and warned to work, may appear in person, or by an able-bodied man as a substitute; and the person or substitute so appearing shall, subject to the orders of the Overseer, actually work eight hours in each day.

20. The acceptance by the Overseer of any excuse for refusal or neglect shall not in any case exempt the person excused from commuting for or working the whole number of days for which he is assessed during the year.

21. The expenses connected with the proclamation erecting the district into a Statute Labor and Fire District, and the expenses of advertising and holding the meeting of residents for the election of the Overseer of such district, in which the sum of \$5, to be paid to the Returning Officer appointed by the Lieutenant-Governor for directing and holding such election, shall be included, and the remuneration of the Overseer, as hereinafter provided, shall be a first charge upon commutation moneys and fines collected by the Overseer; and the balance shall be applied and expended by the Overseer in the improvement of roads, bridges, or in making fire-guards in the district.

22. The remuneration of the Overseer shall be \$2 per day for every day he is necessarily employed in the execution of his duties as Overseer, to be paid out of the fines and commutation money; provided, however, that he shall in no case receive more than \$25 in any one year for his services, beyond his own road tax.

23. The Overseer shall have all the road and fire district labor assessed in his district worked out and expended on the highways and roads previous to the twenty-fourth day of July in each year.

24. The Overseer shall, on or before the first day of September in each year, render to the Lieutenant-Governor an account in writing, containing:—

(1) The names of all persons assessed on the highways and roads, or for fire district purposes, in his district:

(2) The names of all persons who have actually worked on the highways and roads, or on fire district work, with the number of days they have worked;

(3) The names of all those who have been fined, and the sums in which they have been fined, together with the names of the convicting Justice, and the various amounts collected;

(4) The names of all those who have commuted, and the manner in which the moneys arising from the fines and commutations have been expended;

(5) A list of taxes unpaid by non-residents, together with the number of each lot or parcel of land, whose owner is either non-resident or unknown, and upon which taxes were not collected:

(6) The names of all persons, residents, who have not done, or commuted for, statute and fire district labor, and upon whose land the said tax is due and remains unpaid, which account shall be verified as correct by the oath of the Overseer, in the form D of the Appendix to this Ordinance sworn before a Justice of the Peace.

25. The Overseer shall, with his return, pay the Lieutenant-Governor all moneys remaining in his hands, to be by the Lieutenant-Governor-in-Council held to the credit of the said district, until the accumulations are required for making and improving roads, bridges, or for fire district purposes, in the district.

26. The amount of taxes returned by the Overseer as unpaid may be collected from the defaulters, after such taxes have remained unpaid for not less than two years, by an action at Law in the name of the Overseer.

## STATUTE LABOR AND FIRE DISTRICTS.

(a) When any part of the Taxes assessed against any land, under the provisions of this Ordinance, remain unpaid for two full years after becoming due, the Overseer shall proceed to sell such lands or a part thereof for such arrears of Taxes. And the provisions of the Ordinance respecting Municipalities, and amendments thereto, as they exist at the time at which the proceedings for the sale of such lands are commenced, in so far as they are applicable, and with such changes as may be necessary, shall be held to be applicable to this Ordinance for the purpose of such sale.

27. At the expiration of the term of any Overseer, or on the position becoming vacant from death, resignation or otherwise, the rolls, district moneys, and other property of such Overseer, held by him in virtue of his position as Overseer, shall be handed over by him or his personal representatives to his successor.

28. Any Overseer, who refuses or neglects to discharge his duties, after having first accepted the office, or who neglects or refuses to render a true and correct account as required by this Ordinance, or who refuses or neglects to pay any balance of public money, which then may be due from him, shall for each and every offence incur a penalty not exceeding \$100, to be recovered, together with the balance of the moneys remaining in his hand, at the suit of the Lieutenant-Governor before any Court of competent jurisdiction.

29. Any person liable to perform work or any duty under the provisions of this Ordinance, who wilfully neglects or refuses to perform the same when and where directed by the Overseer, shall be guilty of an offence against this Ordinance and be liable, on summary conviction before a Justice of the Peace, to a penalty not exceeding fifty dollars, with costs of prosecution, and in default of payment to be imprisoned, with or without hard labor, for any time not exceeding three months and such fine when recovered shall be paid to the Overseer for the use of the District.

30. Ordinance No. 7 of 1890 and Ordinance No. 17 of 1892 are hereby repealed.

31. This Ordinance may be cited as "The Statute Labor and Fire Ordinance."





Statute Labor and Fire District No. ....

FORM C.

(Vide Section 10.)

| Names of Per-<br>sons Liable. | No. Days As-<br>sessed. | Section. | Township. | Range. | Owner or<br>Occupier. | Commutation<br>paid. | Name of<br>J.P. | Amount<br>recovered<br>before J.P. | Non-Resident<br>tax unpaid<br>from 18 . | Amount ex-<br>pended and<br>how. | Money on hand. | Remarks. |
|-------------------------------|-------------------------|----------|-----------|--------|-----------------------|----------------------|-----------------|------------------------------------|-----------------------------------------|----------------------------------|----------------|----------|
|                               |                         |          |           |        |                       |                      |                 |                                    |                                         |                                  |                |          |

I make oath and say the above is a true statement, to the best of my knowledge, of the amount of labor assessed for, performed and not performed, and the amount of money collected by way of commutation or otherwise, how much has been expended thereof, and in what manner, and the balance remaining in my hands, for the Statute Labor and Fire District No.

Sworn before me at

this

day of

18

Overseer.

## FORM D.

(*Vide Subsection (6) of Section 24.*)

STATUTE LABOR AND FIRE DISTRICT No. . . . .

I, \_\_\_\_\_ hereby certify, under oath, that the account hereto annexed, signed by me, is a true account, in accordance with the provisions of Section 26 of "The Statute Labor and Fire Ordinance," of Statute Labor and Fire District No. \_\_\_\_\_. And that I have been necessarily and actually employed in the execution of my duties as Overseer for \_\_\_\_\_ days.

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NO. 13 OF 1893.

AN ORDINANCE TO AMEND THE ORDINANCE  
RESPECTING MORTGAGES AND SALES  
OF PERSONAL PROPERTY.

*(Assented to 16th September, 1893.)*

The Lieutenant-Governor, by and with the advice and consent of the Legislative Assembly of the Territories, enacts as follows :—

1. Section 3 of Ordinance No. 18 of 1889 is amended by striking out the words “made in the Territories” in the second line thereof.

2. No mortgage or conveyance intended to operate as a mortgage, hereafter given on a crop before it is sown or planted, shall be valid, except in case of mortgage to secure price of seed grain.

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## NO. 14 OF 1893.

## AN ORDINANCE TO FURTHER AMEND "THE INTERPRETATION ORDINANCE."

[Assented to 16th September, 1893.]

The Lieutenant-Governor, by and with the advice and consent of the Legislative Assembly of the Territories, enacts as follows :—

1. Subsection 16 of Section 8 of "The Interpretation Ordinance" is hereby amended by adding thereto the following sub-clause: (a) The time used upon the Canadian Pacific Railway, and known as Mountain Standard time, being the local time at the one hundred and fifth meridian of longitude, is hereby declared to be the standard time of the Territories, and when any Ordinance refers to any particular time of day such Standard time shall be considered to be meant.

2. Sub-section 45 of Section 8 of the said Ordinance is hereby repealed and the following substituted therefor:

(45) Proceedings for the recovery and enforcement of fines, penalties and forfeitures, imposed by any Ordinance for the commission of offences created thereby, may be had, taken, prosecuted and enforced under and by means of any of the provisions contained in "The Criminal Code, 1892," and amendments thereto, which, for the purposes aforesaid, are incorporated in and form part of every such Ordinance; and the words "on summary conviction" wherever they occur in any Ordinance, shall refer to and mean under and by virtue of the provisions of the said Criminal Code.

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## NO. 15 OF 1893.

AN ORDINANCE TO AMEND CHAPTER 39 OF THE  
REVISED ORDINANCES, 1888, INTITULED "AN  
ORDINANCE TO PREVENT THE PROFANA-  
TION OF THE LORD'S DAY."

[Assented to 16th September, 1893.]

The Lieutenant-Governor, by and with the advice and consent of the Legislative Assembly of the Territories, enacts as follows :—

1. Section 2 of Chapter 39 of The Revised Ordinances 1888, is hereby amended by adding thereto the following words:— "Or engage in hunting or in the pursuit of game. Except that any traveller, family or other person in a state of actual want may engage in hunting or kill game to satisfy his or their immediate wants."

## NO. 16 OF 1893.

AN ORDINANCE TO AMEND CHAPTER 45 OF  
THE REVISED ORDINANCES, 1888, RESPECTING  
EXEMPTIONS FROM SEIZURE AND SALE  
UNDER EXECUTION.

[Assented to 16th September, 1893.]

The Lieutenant Governor, by and with the advice and consent of the Legislative Assembly of the Territories, enacts as follows :—

1 Subsection 5 of Section 1 of Chapter 45 of The Revised Ordinances, 1888, is hereby amended by striking out the word "and," where it last occurs in said subsection, and by adding to the end of said subsection the words "one set sleighs and one seed drill."

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## NO. 17 OF 1893.

AN ORDINANCE TO AMEND CHAPTER 36 OF  
THE REVISED ORDINANCES, 1888, RESPEC-  
TING MASTERS AND SERVANTS.

[Assented to 16th September, 1893.]

The Lieutenant-Governor, by and with the advice and consent of the Legislative Assembly of the Territories, enacts as follows:—

1. Section 1 of Chapter 36 of The Revised Ordinances 1888, is hereby repealed and the following substituted, as Section 1 :—Every contract or hire of personal service shall be subject to the provisions of this Ordinance : and if such contract is for any period more than one year it shall be in writing, and signed by the contracting parties.

2. Section 4 of the said Ordinance is hereby amended by adding the following sub-section :

(a) Any person who has been in the employ of another at any time during the thirty days preceding the laying of a complaint, under this Section, shall be held to be an employee or servant within the meaning of this Section.



NO 18 OF 1893.

AN ORDINANCE TO ALTER THE BOUNDARIES  
OF CERTAIN ELECTORAL DISTRICTS.

[Assented to 16th September, 1893.]

The Lieutenant-Governor, by and with the advice and consent of the Legislative Assembly of the Territories, enacts as follows :—

1. The Electoral District of Mitchell is hereby altered by adding thereto Townships forty-five and forty-six in Ranges two, three, four, five, six, seven, eight, nine, ten and eleven, west of the third initial meridian.

2. The Electoral District of Batoche is hereby altered by adding thereto so much of Townships forty-five A and forty-five in Range twenty-seven, and of Townships forty-five and forty-six A in Range twenty-six west of the second initial meridian. as lie south of the South Saskatchewan river.

3. The Electoral District of Cumberland is hereby altered by adding thereto the Presbyterian Mission lot, (which said lot is numbered seventy-eight in the survey of Prince Albert Settlement by Montague Aldous, D.L.S.)

4. The Electoral District of Prince Albert is hereby altered by deducting therefrom the areas respectively mentioned in the three preceding Sections.

5. The Electoral District of South Qu'Appelle is hereby altered by deducting therefrom Townships twelve, thirteen, fourteen, fifteen, sixteen, seventeen, eighteen, nineteen A and nineteen, in Range eleven, west of the second initial meridian.

6. The Electoral District of Wolseley is hereby altered by adding thereto Townships twelve, thirteen, fourteen,

fifteen, sixteen, seventeen, eighteen, nineteen A. and nineteen, in Range eleven, west of the second initial meridian.

The Electoral District of Wolseley is hereby further altered by deducting therefrom Townships ten and eleven in Ranges eight, nine and ten west of the second Initial Meridian.

## NO. 19 OF 1893.

## AN ORDINANCE RESPECTING MUNICIPAL ASSESSMENT AND COLLECTION OF TAXES AND LICENSES.

[Assented to 16th September, 1893.]

The Lieutenant-Governor, by and with the advice and consent of the Legislative Assembly of the Territories, enacts as follows :—

1. This Ordinance may be cited as “The Optional Assessment Ordinance.”

2. Where the words following occur in this Ordinance, or the Schedules thereto, they shall be construed in the manner hereinafter mentioned, unless a contrary intention appears :—

(a) “Gazette” shall mean The North-West Territories Gazette.

(b) “Council” means the Municipal Council.

(c) “Town” means an incorporated city, town or village.

(d) “Rural Municipality” means a municipality except an incorporated city, town or village ; and the word “Municipality” shall embrace, as well as rural municipalities, any incorporated city, town or village.

(e) “Ranche” shall mean land held under a grazing lease from the Dominion Government.

(f) “Land,” “Property” and “Real Estate” respectively shall include all buildings, or other things erected upon, or affixed to the land, and all rights thereto and interests therein.

(g) “Lot” means one of the sub-divisions into which a

piece or parcel of land has been divided for purposes of sale into smaller parcels.

(h) "Taxable Person" and "Rateable Property" mean:—

(1) The owner of real estate within the municipality, not exempt from taxation.

(2) A corporation, company, person or persons conducting any business whatsoever within a municipality.

(3) Any and all persons who are wage earners, or in receipt of an income from a trade, occupation, office or profession within the municipality.

(4) Any and all persons in receipt of an income from any other source.

(5) A corporation, company, person or persons required by this Ordinance to pay a license tax.

(i) "Owner or proprietor" means a person who has the ownership, possession or use of any taxable property, or has an agreement for the purchase of the same.

(j) "Mayor or Chairman" means the head of the council of a municipality.

(k) "Clerk" shall include secretary-treasurer, and "Treasurer" shall include secretary-treasurer.

(l) "Arrears of Taxes" shall include penalties, or penalty for default in payment, as provided for by this Ordinance.

(m) "Judge" means a Judge of the Supreme Court of the North-West Territories of Canada.

(n) "Inventory or Assessor's List" means the blank form to be filled in by all taxable persons, before being assessed.

(o) "Non-resident" denotes a tax payer who is not a resident within the municipality.



## TAXABLE PROPERTY AND EXEMPTIONS.

3. The council of every municipality may pass by-laws for :—

(1). The raising of its revenue by assessment and collection of rates on all real estate within the municipality, income of its residents, and by a business and license tax, and by the imposition of such other licenses as are allowed by the Municipal Ordinance as hereinafter specified, subject to the following exemptions :—

## EXEMPTIONS.

The following shall be exempted from taxation :—

(a) All property held by Her Majesty or specially exempted by the Parliament of Canada, or for the public use of the Government of the Territories ;

(b) All property held by, or in trust for, or for the use of any tribe of Indians or the property of the Indian Department ;

(c) Where any property mentioned in the preceding clauses is occupied by any person, otherwise than in an official capacity, the occupant shall be assessed in respect thereof, but the property itself shall not be liable ;

[d] The lands not exceeding one half acre and the buildings thereon of all public schools, universities, collegiate institutes, or incorporated seminaries, being public property, so long as such property is actually used or held for educational purposes ;

[e] All property belonging to the municipality, when held and occupied or in the use of the corporation ;

[f] Jails and court houses and the necessary land attached thereto ;

(g) Any land in use as a Public Cemetery not exceeding twenty five acres.

[h] All Hospitals receiving aid under "The Hospitals Ordinance."

[i] The income of a farmer derived from his farm situate within the Municipality;

[j] The income of merchants or other persons or corporations derived from their business, who at the time are assessed for a business or license tax (this shall not apply to employees of companies, firms or persons paying a business or license tax.)

[k] All buildings and improvements on real estate, stocks of merchandise, machinery, mechanics' tools and all personal property generally.

#### ASSESSMENT ROLLS TO BE MADE.

4. Annually, unless the council shall by by-law adopt for the current year the assessment roll or part of it as revised for the previous year, the assessor appointed by the council of every rural municipality, and the assessor appointed by the council of every city, town or village, shall, after diligent enquiry, and aided by the inventory mentioned in this Ordinance, proceed to make a valuation of all the rateable property in the municipality, and according to his best judgment make an assessment roll, in which he shall set forth correctly all the particulars and information required to be contained in the form for rural municipalities, and in the forms for cities, towns and villages, or to the like effect;

Provided, that where the council adopt a part only of the assessment roll of the previous year, as above provided, the assessor shall make an assessment as to the part of the rateable property for which the roll of the previous year has not been adopted.

#### WHEN CROWN LANDS ARE SUBJECT TO TAXATION.

5. Crown lands, occupied, whether under right of purchase or homestead or pre-emption entry, and unpatented lands

vested in or held by Her Majesty, which may be hereafter or may have been heretofore sold, or agreed to be sold, to any person or corporation, or which may be located as a free grant, homestead or pre-emption, shall be liable to taxation from the date of such homestead, or pre-emption entry, location, sale or grant; and all such lands shall be liable to taxation thenceforward under this Ordinance, in the same way as other land, whether any license of occupation, certificate of sale, or receipt for money paid on such sale, has, or has not, been, or is, or is not, issued, and in case of sale or agreement for sale by the Crown, whether any payment has, or has not, been, or is, or is not, made thereon, and whether any part of the purchase money is, or is not overdue; but such taxation shall not in any way affect the right of Her Majesty in such lands.

And whenever any portion of a ranche is within the limits of a municipality, the leased property belonging to the lessee of such ranche within the municipality shall be liable to taxation.

#### APPOINTMENT OF ASSESSORS AND COLLECTORS.

6. The council of every municipality shall appoint such number of assessors and collectors of taxes for the municipality as they may think necessary, and may appoint to them the assessment districts or wards within which they shall act, and may prescribe regulations for governing them in the performance of their duties according to the provisions of this Ordinance. No clerk or treasurer shall be appointed assessor.

#### ASSESSMENT COMMITTEE.

7. The council of every municipality shall appoint the mayor, clerk and assessor, or any two others with the assessor, who shall, on completion of the assessor's roll, and before assessment lists are sent out, check over the inventory lists with the assessment roll, and make such corrections in the assessment roll as the majority of the committee may decide.

#### ASSESSORS' LISTS.

8. The clerk of every municipality shall, annually, fur-

nish to the assessor, so soon as he may be appointed, blank inventories, (to be known as the assessor's list), as herein contained, and such other information as the municipal council may determine to ask from the ratepayers.

9. Said blanks shall be so formulated as to require under oath, from each taxpayer in the municipality, a full statement of all taxable real property, the total aggregate yearly sales of every business person, firm or company, and the income of all individuals in the municipality.

10. The assessor shall deliver to each person liable to taxation in the municipality, and shall send by mail to the principal officer of each corporation situated in such municipality, who resides out of it, if known to him, and if not known, the accredited agent resident in the municipality, and to each non-resident taxable in such municipality known to him, a blank inventory, (or assessor's list), to be completed and returned.

11. Each corporation or person taxable in a municipality, (except non-residents taxable only for real estate), who does not duly receive a blank inventory before the first day of February, shall procure such blank by application to the assessor or clerk, and fill in the blanks and make full answers to all the interrogatories therein, and take and subscribe to the oath and deliver same to the assessor before the first of March.

12. In case of rateable property belonging to a trustee, estates of deceased persons, and guardians, and of property or estates not in the care or possession of the owners, the inventory shall be procured and filled by the person who has charge of such property or to whom the property is by law taxable.

13. The assessor shall, on the first day of March, proceed to take up such inventories as have not been previously delivered, and make such personal examination of the property which they are required to appraise, as will enable him to appraise it at its true value in money.

14. When an inventory is properly filled up, sworn to



and delivered, then the assessor shall proceed to make up the assessor's roll.

15. The Assessor shall not be bound by statements in the inventories, if he has reason to doubt their accuracy he shall assess for such amounts as he believes to be just and correct.

16. If a person, or corporation, wilfully omits to make, swear to, and deliver said inventory, or to answer any interrogatories therein, as by this Ordinance required, or makes a false answer or statement therein, or if the assessor has sufficient reason to believe that an inventory does not contain a full, true and correct statement of the taxable property, business or income, of the person or corporation filling out such inventory, according to the requirements of this Ordinance, then said assessor shall ascertain as best he can the amount of taxable property of such person or corporation, and shall appraise the sum at its value in money and if no taxable property of such person or corporation is ascertained by the assessor and he has reason to believe such person or corporation should be assessed, he shall assess such person or corporation for a sum which, in his judgment, is the true value of all taxable property, business or income of such person or corporation.

17. A person, or corporation, whose inventory has been made up under the provision of the preceding Section shall be notified thereof by the assessor on or before the first day of May by a written notice delivered to him personally, or left at his last and usual place of abode, if a resident, or if a non-resident, mailed to him at his last known residence by registered mail.

#### OATH OF OFFICE.

18. Each assessor, and member of the assessment committee, shall take and subscribe and file with the clerk, before entering upon the duties of his office, the following oath:—

I, \_\_\_\_\_, do solemnly swear (or affirm) that I will appraise all the property and other matters subject to taxation in the municipality, so far as required by law; at its true value in money, and will set the same in the assessor's roll of said municipality at its true value, and will not give to anyone (except the assessment committee) any

particulars, figures or amounts that may be contained in any one or all of the Inventories or Assessor's List that will pass through my hands in the discharge of my duties as Assessor, or member of Assessment Committee. So help me God, (or under the pains and penalties of perjury.)

#### PENALTY FOR NEGLECT OF DUTY.

19. If the assessor accepts the inventory of a taxable person not made out and sworn to as provided in this Ordinance, or neglects or refuses to appraise and set in the assessor's roll as required by law, each item as described in each inventory filled up conformably to the provisions of this Ordinance, he shall for each inventory so received and for each such refusal or neglect, forfeit to the municipality, of which he is such assessor, the sum of fifty dollars, and any officer of such municipality may sue for and recover in the name and for the benefit of said municipality.

20. The inventories filled out by taxpayers, and taken up by the assessors, shall be returned to the clerk of the municipality, along with the assessment roll, where they shall be preserved for a period of two years and after the expiration of such time the inventories may be destroyed.

21. A person who wilfully destroys any such inventory, or removes any such inventory from the office of the clerk, during the time which such inventories are required to be preserved, except in obedience to process at law, shall be fined not more than one hundred dollars.

22. The clerk shall allow the assessor, assessment committee, court of revision and solicitor of the municipality to examine the inventory, or inventories, of any person they may name, and shall allow each taxpayer to examine his or her own inventory and shall not allow any other person to inspect said inventories, but any or all such inventories shall be produced in court by such clerk upon subpoena for that purpose. The contents of such inventories shall not be disclosed by any person having access to the same, except as set forth in this Section, and in the event of prosecutions for breach of the provisions of this Ordinance.

#### REAL PROPERTY TAX.

23. For the purpose of assessment, real property shall in-

clude lands, buildings and improvements thereon, but the value of the land only shall be assessed.

#### BUSINESS TAX.

24. For the purpose of assessment of the Business Tax, each and every person, firm or incorporated company, manufacturing, dealing or selling manufactured goods, produce, grain, live or dead stock, lumber, fuel or other wares or merchandise shall furnish to the assessor a sworn statement of the total aggregate sales of their entire business for the previous calendar year, or, should it be more convenient, for the twelve months immediately prior to the assessment, upon request of the assessor, who shall supply forms for that purpose.

(1) Provided that persons having a license to sell Spirituous Liquors shall be exempt from the business tax upon sale of Spirituous Liquors only.

#### INCOME TAX.

25. For the purpose of the Income Tax, all those who may be in receipt of an income from any other source than that which he may receive from his real property, business or licensed occupation within the municipality, shall furnish to the assessor a sworn statement in writing setting forth the particulars of the income for which he should be assessed for the previous calendar year.

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## SCHEDULE A.

## ASSESSOR'S LIST.

Municipality of.....

To..... of .....

Agreeably to the provisions of "The Optional Assessment Ordinance" you are hereby required to make an inventory and valuation of all your taxable real property. If in business of any nature whatever, the total aggregate sales of your entire business for the previous calendar year, or if a wage-earner in receipt of an income from some trade, occupation, calling, office or profession, give your income or salary for the preceding year, or if in receipt of an income from any other source than from any of the above during the previous year, state the amount.

According to the following interrogatories, giving such information as will enable the assessor to appraise such estate, business or income at its true value.

The inventory must be subscribed and sworn to by you and returned to the assessor on or before the first day of March, or on demand thereafter, if a resident of the municipality.

Assessor.

|   |   |   |   |   | (a)                                             | REAL ESTATE "RURAL" |
|---|---|---|---|---|-------------------------------------------------|---------------------|
| 5 | 4 | 3 | 2 | 1 | Name of Owner.                                  |                     |
|   |   |   |   |   | Occupation.                                     | Acres.              |
|   |   |   |   |   | Address.                                        |                     |
|   |   |   |   |   | Name of Occupant.                               |                     |
|   |   |   |   |   | Improved.                                       |                     |
|   |   |   |   |   | Unimproved.                                     |                     |
|   |   |   |   |   | Part of Section, No. of Lot and Name of Parish. |                     |
|   |   |   |   |   | Section.                                        |                     |
|   |   |   |   |   | Township.                                       |                     |
|   |   |   |   |   | Range.                                          |                     |
|   |   |   |   |   | Patented or Unpatented.                         |                     |
|   |   |   |   |   | Total.                                          |                     |
|   |   |   |   |   | Under Cultivation.                              |                     |
|   |   |   |   |   | Your Valuation.                                 |                     |



## REAL ESTATE.

(b) City, town or village.

| Name. | Occupation. | Address. | Location. |        |      | Value of improvements. | Value of Land only. | Name of Occupant. |
|-------|-------------|----------|-----------|--------|------|------------------------|---------------------|-------------------|
|       |             |          | Street.   | Block. | Lot. |                        |                     |                   |
| 1     |             |          |           |        |      |                        |                     |                   |
| 2     |             |          |           |        |      |                        |                     |                   |
| 3     |             |          |           |        |      |                        |                     |                   |
| 4     |             |          |           |        |      |                        |                     |                   |
| 5     |             |          |           |        |      |                        |                     |                   |
| 6     |             |          |           |        |      |                        |                     |                   |
| 7     |             |          |           |        |      |                        |                     |                   |
| 8     |             |          |           |        |      |                        |                     |                   |

(c)

## BUSINESS TAX.

| Name of Person, Firm or Company. | Street. | No. of Block. | No. of Lot. | Business. | Total Aggregate Sales. |     |
|----------------------------------|---------|---------------|-------------|-----------|------------------------|-----|
|                                  |         |               |             |           | Year                   | 189 |
| 1                                |         |               |             |           |                        |     |
| 2                                |         |               |             |           |                        |     |
| 3                                |         |               |             |           |                        |     |
| 4                                |         |               |             |           |                        |     |

## INCOME TAX.

FOR THE YEAR 189 .

(d) Professional and wage-earner.

| From what source.<br>If more than one give them | Occupation. | Salary. | Income. |
|-------------------------------------------------|-------------|---------|---------|
| 1                                               |             |         |         |
| 2                                               |             |         |         |
| 3                                               |             |         |         |
| 4                                               |             |         |         |

## INCOME TAX.

FOR THE YEAR 189 .

(e) From other sources as cash, debts due you, stock, bonds, mortgages, deposits in banks, notes, drafts, rents, etc.

| Nature and name of<br>Investment. | Place. | Amount. | Income. |
|-----------------------------------|--------|---------|---------|
| 1                                 |        |         |         |
| 2                                 |        |         |         |
| 3                                 |        |         |         |
|                                   |        |         |         |

(f). I, \_\_\_\_\_ of \_\_\_\_\_ do solemnly swear, or affirm, that the within is a full and true and correct list and description of all my taxable property, of my business and income which I should be assessed for, that my answers to the within interrogatories are correct according to my best knowledge. So help me God, (or under the pains and penalties of perjury).

Declared before me at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ 189 \_\_\_\_\_

Assessor or J. P.

NOTE.—Oath may be taken by the assessor and all persons authorized to administer oath. In all cases where no property is returnable the word "None" should be inserted. If one form is not sufficient obtain another from the assessor. Assessors are bound under oath to secrecy, not to divulge contents of any Inventory.

#### LICENSES.

26. The Municipal Council of any incorporated city, town or village may pass by-laws for the assessing, collecting and regulating a municipal license tax upon the business or corporate franchise of any corporation, company, person or persons, whether by principals, managers or agents transacting or carrying on their business, either wholly or partly within the municipality, who have not already been assessed under the business tax clause of this Ordinance, of the following nature :—Railroads, telegraph, express, telephone, banking, insurance, electric light, waterworks, street railway, guarantee, mortgage, loan and-investment companies, corporations and persons, associations, societies and firms as herein provided.

(a) The imposing and collecting of license fees shall not in any case be held to prevent the assessing of property, used by license holders in the same manner as other property, and collection of taxes thereon.

27. The clerk of the municipality shall annually furnish to the assessor blank inventories, who shall mail or otherwise furnish to the proper officer of each corporation, company, person or persons required by this Ordinance to pay a license tax to the municipality, blanks so formulated as to require a statement of all the facts necessary to determine the amount of each tax required to be paid.

28. A corporation, company, person or persons required by this Ordinance to pay a license tax shall cause such

blanks to be filled out with full answers to all interrogatories therein contained, and shall cause the same to be returned as hereinafter provided. Such blanks so filled out shall be signed and sworn to by the cashier, manager, agent or other proper officer of the corporation or company, or if by an individual or firm then the oath shall be by the person or persons making the return.

29. Blanks filled out and sworn to as provided shall be made annually, on or before the first day of March in each year, and mailed to or delivered personally to the assessor or clerk of the municipality.

30. A corporation, company, person or persons, whose duty it is to make returns to the corporation and who fails to do so within the time required, unless otherwise provided, shall forfeit to the municipality a sum not exceeding ten dollars for each day's neglect to make such returns, and the forfeiture of their license which shall not be renewed until the inventories are duly filed, sworn to, and all penalties are paid.

31. A corporation, company, person or persons failing to pay the amount of the annual tax within the time required by this Ordinance, unless otherwise provided, shall forfeit to the municipality the sum of ten dollars for every day they continue transacting their business after the date fixed by by-law for payment of the licence tax, and the mayor shall revoke the license of such corporation, company, person or persons and their agents to do business within the municipality upon giving ten days' notice.

32. Taxes and penalties imposed by this Ordinance shall be recovered with costs in an action of debt in any Court in the Territories. The mayor shall cause such suits to be instituted within ninety days after default in paying a tax.

33. For the purposes of this Ordinance the following shall be the requirements in filling in the inventories, and in no case shall the tax exceed the amounts herein stated, but the tax in each case may be reduced by by-law of the corporation.



## RAILROADS.

34. Every railway company, having a station or office within the municipality, shall fill in a return giving the amount of the entire gross receipts of such company from its passenger and freight earnings, taken at the station within the municipality, for the year preceding the filing of the return, and the tax imposed upon such return shall not exceed one half of one per cent. upon the gross receipts from these two sources.

## TELEGRAPH COMPANIES.

35. Every corporation, company, person or persons owning or operating a telegraph line, or doing telegraph business or having an office within a municipality, shall pay a tax of two per cent. upon the gross receipts at their office or offices within the municipality for the preceding year.

## EXPRESS COMPANIES.

36. Every corporation, joint stock company, person or persons doing express business, and having an office for the transaction of express business in connection with any railway line within the municipality, shall pay a tax to the same not exceeding two per cent. upon the gross receipts at their office during the past calendar year.

## TELEPHONE.

37. Every corporation, company, person or persons, doing telephone business in a municipality, shall pay a tax not to exceed five per cent. upon the gross receipts of all their business earned wholly within the municipality.

## BANKS.

38. Every incorporated bank, having a branch or agency within a municipality, shall be required to make a return showing the total amount of bills, notes and drafts under discount on the first of January preceding date of return, and

the license tax upon the same shall not exceed, for the first fifty thousand dollars, two hundred dollars, and for each additional fifty thousand dollars a further sum of one hundred dollars.

Provided, that for private or unincorporated banks, the license tax shall be but one half that charged to chartered banks.

#### FIRE AND LIFE INSURANCE.

39. All companies accepting risks and carrying on the business of insurance against fire and life shall make, annually, a return showing their gross receipts from premiums within the municipality for the previous calendar year, and the license tax shall not exceed one per cent. on the gross annual receipts of the company.

#### ACCIDENT AND GUARANTEE INSURANCE.

40. All companies accepting risks against accident and guarantee shall make annual returns, giving total amount received as premiums within the municipality, and the license tax imposed shall not exceed one half of one per cent. on the gross annual receipts from premiums.

#### MORTGAGES AND LOANS.

41. Every mortgage, loan, building, or investment company, having an office or an agent appointed within the municipality for the purpose of negotiating loans, either in or out of the municipality, shall annually make a statement giving the gross amount of loans effected during the previous calendar year, and the license tax for each company shall be an amount not exceeding one half of one per cent. upon the total loans for the year.

#### ELECTRIC LIGHT AND WATERWORKS.

42. Every corporation, company, person or persons owning and operating an electric light or waterworks plant, unless specially exempted, shall annually make a return giving the

gross receipts from all sources of revenue, and the tax upon the same shall not exceed one per cent. upon the gross annual receipts.

#### STREET RAILWAYS.

43. Every corporate street railway shall fill in a return, giving the amount of their entire receipts from all sources for the previous calendar year, and the tax imposed on such return shall not exceed two per cent. on gross amount of said return.

#### SOCIETIES.

44. All secret and benefit societies, holding meetings and transacting business within a municipality, shall be assessed and pay a license tax not exceeding ten dollars annually.

#### REAL ESTATE AGENTS.

45. Any firm, person or persons who engage in selling, bartering or offering Real Estate for sale shall take out a license for doing so; the fee for such shall not exceed Twenty dollars for each year.

46. The mayor may summon before a Judge of the Supreme Court, and examine upon oath, any officer, agent or clerk of a corporation, company, person or persons required by this Ordinance to make returns, or pay a tax, and may examine any book of accounts kept by such corporation, company, person or persons concerning all matters as to which information is required to carry out the provisions of this Ordinance.

(a) Any such officer, agent, clerk, person or persons who refuses to appear and be sworn, or to testify with reference to the matters as to which he is to testify by the preceding Section, or who refuses to show to the Judge such books of account, shall be fined for each offence not exceeding fifty dollars.

47. If the corporation finds that, owing to the incorrect-

ness of a return or to any other cause a tax paid is too small, they shall assess an additional tax sufficient to cover the deficit, and forthwith notify the parties by mail, and if such additional assessment is not paid within thirty days the corporation, company, person or persons shall be liable to same penalties as for neglect to pay the annual tax.

48. Such license tax, as far as respects the corporations, companies or associations mentioned in Sections 34 to 44 shall be payable by such corporation, companies or associations on the first day of July in each year, unless otherwise stipulated by by-law of the Council.

49. Whenever it shall be appointed by by-law for the payment of the license taxes to be paid, and the mayor is satisfied that the provisions of this Ordinance are carried out, he shall issue to each corporation, company, person or persons a certificate under his hand, permitting it to transact business within the municipality for one year from the date thereof.

50. Every such corporation, company, or person shall, within thirty days after being authorized to transact business in the municipality, file a certificate with the clerk stating the name of every person, corporation or others who act, or propose to act, in the municipality as the agent or representative of such corporation, company or person.

51. So much of the charter of any corporation or company, organized under the laws of the Dominion of Canada as exempts such corporation or company from taxation as it conflicts with this Ordinance is hereby repealed.

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(b). I, \_\_\_\_\_ of \_\_\_\_\_ Company do solemnly swear that the above is a full and true and correct return of the gross annual \_\_\_\_\_ from \_\_\_\_\_ received by the above company, through our office within the municipality of \_\_\_\_\_ which said company should be assessed for, and that the said accounts are correct according to my best knowledge. So help me God (or under the pains and penalties of perjury).

Declared before me at \_\_\_\_\_ this  
day of \_\_\_\_\_ 189 \_\_\_\_\_

(Signed) \_\_\_\_\_

52. The assessor shall assess and enter all exempted real property in the assessment roll, separately from the non-exempted real property, and shall make return of the same to the council.

53. The assessor shall also be bound to enter in his assessment, besides what is required by the last preceding Section and said form, all other information that may be required by the council, or by the Lieutenant-Governor-in-Council by instructions sent to the council, not later than the first day of February of the year during which the assessment is to be made.

54. It shall be the duty of the assessor to make such enquiries at the Dominion Lands Office, as well as at the Registry Office, if necessary, as will enable him to assess all lands that have become liable to assessment, or are omitted in the assessor's list; and the assessors' travelling expenses attending such search shall be paid by the municipality, if authorized by the council.

55. It shall be the duty of the officers in charge of the respective offices above named, when so required by the assessor, to give him all information he requires respecting the property situated within the limits of the municipality for which he is assessor; when these officers are required, however, to give extracts or certificates from their office, then they may charge five cents per folio of one hundred words for all such extracts, and twenty-five cents for each certificate.

## ASSESSMENT ROLL.

56. All the real property, business, income and license tax shall be enumerated in columns for each form of taxation in the municipality and shall be included in one roll.

57. In the case of non-resident lands in rural municipalities, the assessor shall insert the word "non-resident" in the column for names of owners, opposite the description of such lands.

58. Lands occupied by the owner shall be assessed in his name.

59. All real property situate within, but owned out of, the Territories shall be liable to assessment in the same manner, and subject to the like exemptions, as other real property under the provisions of this Ordinance.

60. Unoccupied lands may be denominated "lands of non-residents," unless the owner thereof has a legal domicile or place of business in the municipality where the same is situated, or by himself or agent gives notice in writing, setting forth his full name, occupation, place of residence and post office address, to the clerk of the municipality on or before the first day of February in each year, that he owns such land, describing it, and requires his name to be entered on the assessment roll thereof, and the clerk of the municipality shall, on or before the tenth day of February, in each year, make up and deliver to the assessor a list of the persons requiring their names to be entered on the roll with the inventories forwarded by said non-residents.

61. It shall be the duty of the assessor, where he finds lands occupied, to assess them in the name of the occupant as occupant or tenant, (as the case may be) and also to the owner, if required to do so by the latter, or if he can ascertain his name from the tenant or occupant, or otherwise.

62. When the land is owned or occupied by more persons than one, and all their names have been furnished to the as-

essor, they shall be assessed therefor in the proportions belonging to or occupied by each respectively, and if a portion of the land so situated is owned by parties who are unknown and who have not required their names to be entered on the inventory, their portion of the property shall be assessed in the names of the occupants, if occupied, and if unoccupied shall be entered as non-resident.

(a) In cities, towns and villages, such lands may be assessed in conformity with this Ordinance, but the amount need be extended only once, and opposite the name of the last owner on the list, and no division of the property shall be necessary for the purposes of assessment.

63. When the land is assessed against both the owner and occupant, or owner and tenant, the assessor shall place both names within brackets on the roll.

64. All lands in municipalities, improved, for farming or gardening purposes, shall be assessed at the same value as such lands would be assessed if unimproved, but in cases of land improved for other purposes, the increased value, there be any, shall be assessed at actual value.

65. In villages, towns and cities the assessment of lands shall be so made that taxation shall fall equally upon the same according to a *pro rata* value.

#### INVENTORY OF NON-RESIDENT REAL ESTATE, HOW MADE.

66. Real estate situated in a municipality, when the owner thereof is a non-resident and not known, and who is not assessable for any other tax as provided herein, shall be set in the roll to such owner at the same valuation at which other property adjoining may be valued.

67. The property in a city, town or village, of a person not resident, or of a firm having no place of business within a city, town or village, shall be assessed in the name of, and against, any agent, trustee or other person who is in control or possession thereof, and shall be deemed to be the individual property of such agent, trustee or other person, for all the objects within this Ordinance.



68. In assessing vacant ground, or ground used as a farm garden or nursery, and not in immediate demand for building purposes, in towns, the value of such vacant ground shall be that at which sales of it can be freely made, and where no sales of it can be reasonably expected during the current year, the assessor shall value it as if he held for farming or gardening purposes, with such percentage added as the situation of the land may reasonably call for, and such vacant land, whether surveyed into lots or not, if unsold as such, may be entered on the assessment roll as so much of the original lot or section, as the case may be, and where ground is not held for the purposes of sale, but *bona fide* inclosed and used in connection with a residence or building as a paddock, garden, park or lawn, it shall be assessed at a valuation which, at six per centum, would yield a sum equal to the annual rental, which, in the judgment of the assessor, it is reasonably worth, reference being always had to its position and local advantages.

#### INCORPORATED COMPANIES.

69. Every railway, tramway, or other incorporated company possessing real property in a municipality shall transmit to the clerk of such municipality, on or before the first day of February in each year, a return, certified to by the President and Secretary or other two officers of the company, showing the actual value and extent of all such property in the municipality, and mentioning all exemptions claimed by such company and such returns when received shall be communicated to the assessor by the clerk in due time for the making of the assessment roll.

70. The assessor, in making the assessment roll of the taxable property in the municipality, may assess the real estate of such company according to the value mentioned in the return made by the company, if he is satisfied of the correctness of the valuation therein made.

71. If such return has not been made by the company within the time prescribed, or if the assessor has reason to doubt its accuracy, the assessment of all property appearing to belong to the company shall be made in the same manner

as that of any other ratepayer, and upon the best information the assessor can obtain; but in case of an appeal thereafter by the company to the court of revision, or the Judge, against the assessment of their lands, they shall be liable to pay the costs of such appeal, whatever may be its result, if they have failed at the proper time to furnish the clerk of the municipality with the information required by this Ordinance.

72. The assessor shall enter every piece or parcel of land upon the assessment roll by a true and accurate description and where such piece or parcel of land consists or is composed of a fractional part of any lot or lots, the description thereof shall be made by the assessor on the assessment roll by such description that the parcels of land can be easily ascertained, if the assessor can procure such a description from the Registry Office, or from the owner of such parcel or by the best description that can be obtained.

73. Property liable to assessment shall be assessed in the municipality in which the same lies, and, if the municipality is divided into wards, in the ward in which such property lies, and this shall include the land of the incorporated companies, and when any business is carried on by a person in a city, town or village in which he does not reside the property or business belonging to such person shall be assessed in, the city, town or village in which such property is situated and against the person in possession or charge thereof, as well as against the owner.

#### ASSESSORS' CERTIFICATE.

74. To the said assessment roll must also be attached a certificate or certificates, signed by the said assessor or assessors, and sworn before a justice of the peace or commissioner for taking affidavits or the clerk of the municipality, in the following form (or as near thereto as may be):—

(a) I (name of assessor) do swear (or solemnly affirm) that, to the best of my knowledge and belief, the foregoing assessment roll is correct; and that nothing has been unduly or fraudulently omitted therefrom or insert-

ed therein; and that I have given and sent, according to law, the notices required by law, and that the date of mailing such notices is in every case correctly stated in said roll. So help me God.

(b) The roll shall not be legal, unless completed, sworn to, and deposited with the clerk, as provided.

75. In case any assessor, after having accepted the office, fails or omits to perform his duties or to insert in his roll any of the information required by the form herein given, and which it shall have been in his power to obtain, he shall be liable to a penalty of five dollars for each such omission, respectively, for the recovery of which an information may be laid or suit brought, and on due proof that with reasonable effort and diligence such information could have been obtained, such penalty, with costs of prosecution or suit, shall be recoverable by a summary process before any justice of the peace residing in the municipality for which the defendant was assessor, or before any court of competent jurisdiction in the district in which said municipality is situate; said information may be laid or suit brought by any ratepayer of such municipality or the mayor, or by any one authorized by him in that behalf, and such penalty may be recoverable by distress or otherwise, and when so recovered shall be payable to the party laying such information or bringing such suit: provided, however, that no such information shall be laid or suit brought but within six months from the time of the completion and return of said roll to the clerk of the municipality, and that any party laying such information or bringing such suit shall, on failure to prove the same, in the discretion of the justice or court trying the case, be liable to pay the costs of such proceedings.

76. Nothing in the last foregoing Section shall be held to interfere with any other remedy against an assessor for any neglect or breach of duty provided by law.

77. No assessment shall be invalid by reason of any defect in form, or by reason of omission of assessable property therefrom, or by error in the notice provided for in Sections 17 and 81, or by the non-return of the roll at the time specified, or by reason of any land occupied being wrongly entered as unoccupied or occupied, or by reason of any land belonging

to persons having their legal domicile or place of business (or of their agent) in the municipality, who have given the notice required by Section 60 being entered as and of non-residents or *vice versa*.

78. The assessor shall return the assessment roll, together with all inventory forms received by him, on or before the first day of April next after the making thereof. The council may, however, extend that time if necessary, from time to time, up to the first day of May of the year for which the roll is made; at which date such return must be made.

79. It shall be the duty of the clerk of a municipality, upon the return to him of the assessment roll, at once to examine the same, and point out to the assessor any errors or omissions appearing therein, so far as said clerk shall be able to discover such errors or omissions from an examination of the roll itself, or from any documents or information in his possession, and having reference to the requirements of this Ordinance, and if the assessor does not at once and before finally verifying said roll correct such errors and supply such omissions, it shall be further the duty of said clerk to report to his council through the mayor, or other head thereof, the facts and particulars as to such errors or omissions; and the said mayor, or head of said council, shall thereupon take such steps as shall be deemed advisable and necessary to cause such corrections to be made in said roll and give such notices as such correction shall render necessary; and said council may refuse to pay the said assessor his salary until or unless said roll is satisfactorily completed.

80. Before the assessment roll can be returned to the council it must be signed by the assessor and the assessment committee, but if the committee do not agree the minority may make a separate report thereon, in which case the council may determine and settle any assessments in dispute.

81. Every assessor, as soon as his assessment roll is completed and approved, and signed by the assessment committee, shall send by mail to, or leave personally with, each person assessed, or his agent, a notice in one or all of the forms.



82. The clerk shall cause to be printed upon the back of the blank inventories, such portions, say clauses Nos. 8, 9, 10, 16, 17, 18, 23, 24, 25 of this Ordinance or other portions of the law relating to taxpayers' duties.

83. The assessor shall also enter in the assessment roll the date on which he has mailed the notice required to be sent by him to each party assessed by name.

#### COURT OF REVISION.

84. The procedure of appeal from the assessor's list to the Court of Revision shall be the same as provided for in The Municipal Ordinance.

#### ESTIMATES.

85. The council of every municipality shall, every year, make estimates of all sums which may be required for the lawful purposes of the municipality for the year in which such sums are required to be levied, each municipality making due allowance for the cost of collection and of the abatement and losses which may occur in the collection of the tax, and for taxes on the lands of non-residents which may not be collected.

#### RATES.

86. The council of every municipality shall, each year, by by-law or by-laws, levy a rate or rates of so much in the dollar as the assessed value will yield of the property, business, income, and license tax therein as the council deems sufficient to raise the sums required on such estimates.

#### COLLECTION OF RATES.

(1) All rates, assessments, charges and taxes to be collected under the provisions of this Ordinance, shall be collected as provided for in the Municipal Ordinance.

(2) In cases where the income tax cannot be collected, the collector may summon any defaulter to appear before a Judge

who may order the defaulter to pay and in default may order him or them to confinement in any jail in the Territories for a term not exceeding ten days.

#### HOW RATES ARE TO BE CALCULATED—REAL PROPERTY.

(1) The real estate rates shall be calculated at so much in the dollar upon the actual value of all the real property liable to assessment therein, but shall not exceed in any one year the rate of three per cent.

#### BUSINESS.

(3) The business tax rate shall not exceed one dollar and a half on each thousand of the total aggregate annual sales of each taxable person.

#### INCOME.

(4) The income rates in any one year shall not exceed as follows to all assessed:—

|                                           |        |
|-------------------------------------------|--------|
| For income under \$400 00.....            | \$2 00 |
| Over \$400 00 and under 800 00.....       | 5 00   |
| “ 800 00 “ 1000 00.....                   | 10 00  |
| “ 1000 00 “ 1500 00.....                  | 15 00  |
| “ 1500 00 “ 2000 00.....                  | 20 00  |
| “ 2000 00 “ 3000 00.....                  | 30 00  |
| and \$15.00 for each additional thousand. |        |

#### LICENSE.

(5) The license tax in no case shall exceed the amount specified in Sections 34 to 44, but the tax in any or all may be reduced by by-law of the municipality.

87. If the amount collected falls short of the sums required, the council may direct the deficiency to be made up from any unappropriated fund belonging to the municipality.

88. If there is no unappropriated fund, the deficiency may be equally deducted from the sums estimated as required, or from any one or more of them.

89. If the sums collected exceed the estimates, the balance shall form part of the general fund of the municipality and be at the disposal of the council, unless otherwise specially appropriated; but if any portion of the amount in excess has been collected on account of a special tax upon any particular locality, the amount in excess collected on account of such special tax shall be appropriated to the special local object.

90. The taxes, or rates, imposed, or levied, for any year shall be considered to have been imposed, and to be due on and from the day provided in the by-law authorizing the same, and if no such day is provided in such by-law then on and from the first day of January of the year for which such taxes, or rates, are levied.

#### ADOPTION OF THIS ORDINANCE OPTIONAL.

91. The adoption of this Ordinance by any municipality shall be optional, which must be decided by a two-third majority of the members of the council, or upon receipt of a petition signed by one-half of the resident ratepayers of the municipality the council shall adopt and carry into effect the provisions of this Ordinance.

92. Wherever this Ordinance may be adopted as provided for in the preceding Section the provisions of Chapter 8 of The Revised Ordinances, 1888, and amendments of such as relate to assessment and collection of municipal rates shall not apply and have no effect.

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## SCHEDULE C.

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DECLARATION FORMS.

I ..... A. B. do solemnly declare that (*state the facts declared to*)

And I make this solemn declaration conscientiously believing it to be true, and knowing that it is of the same force and effect as if made under oath and by virtue of "The Canada Evidence Act, 1893."

Declared before me ..... at ..... this .....  
day of ..... 189 .

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## NO. 20 OF 1893.

AN ORDINANCE TO AMEND ORDINANCE NO.  
6 OF 1892, REGULATING THE PRACTICE OF  
DENTISTRY.

[Assented to 16th September, 1893.]

The Lieutenant-Governor, by and with the advice and consent of the Legislative Assembly of the Territories, enacts as follows:—

1. Section 6 of Ordinance No. 6 of 1892; is hereby repealed.
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NO. 21 OF 1893.

AN ORDINANCE FOR THE ADVERTIZING OF  
STRAY ANIMALS.*[Assented to 16th September 1893.]*

The Lieutenant Governor, by and with the advice and consent of the Legislative Assembly of the Territories, enacts as follows:—

1. Any person who has on his premises, or in his band, herd, or flock any animal of which the owner is known to him, shall, unless he have sufficient reason to believe that the owner has full knowledge of the location of the animal, at once notify the owner through the mail.

2. Any person who has on his premises, or in his band, herd, or flock any animal of which the owner is unknown, shall, before the expiration of fifteen days, forward to the Lieutenant-Governor-in-Council a notice to the effect that such animal is on his premises or is in his band, herd, or flock, which notices shall contain the name and location of the finder, a full description of the animal, with all the marks, natural or artificial, color, and probable age. Such notice shall be published by the Lieutenant-Governor-in-Council and a copy of the same shall be forwarded with every copy of the Official Gazette of the North-West Territories, and shall cause a copy of such notice to be posted in the nearest post office and shall forward a copy of the said notice to a post of the North West Mounted Police.

(a) The finder of an animal may cause a copy of the notice provided for in this Section to be inserted in the nearest newspaper, and the cost of the same shall be held to be a cost which he is entitled to recover from the owner of the animal, and he shall have a lien upon such animal for the amount of such cost: Provided that the cost of advertising, which may be recovered from the owner, shall not exceed one dollar.

3 The owner of any animal shall be entitled to recover the same from any person in whose possession such animal may be, upon tender of all charges incurred up to the time of tender.

4. In the case of the owner and the finder not being able to agree as to the costs of keep, etc., they shall immediately appoint an arbitrator or arbitrators under the provision of the Arbitration Ordinance of 1891-2.

5. Any person, who does not comply with the provisions of this Ordinance, shall be liable to a fine not exceeding twenty-five dollars.

6. The provisions of this Ordinance shall not apply to any portion of the Territories which has been set apart by proclamation as a Stock District under Chapter 19 of The Revised Ordinances, 1888.

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NO 22 OF 1893.

AN ORDINANCE TO AMEND "AN ORDINANCE  
RESPECTING JURIES."

[*Assented to 16th September, 1893.*]

The Lieutenant-Governor, by and with the advice and consent of the Legislative Assembly of the Territories, enacts as follows :—

1. Section 2 of the Ordinance intituled "An Ordinance respecting Juries," is amended by adding there to the word "Postmasters."

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## NO. 23 OF 1893.

## AN ORDINANCE TO AMEND "THE SCHOOL ORDINANCE."

[Assented to 16th September 1893.]

The Lieutenant-Governor, by and with the advice and consent of the Legislative Assembly of the Territories, enacts as follows:—

1. Section 6 of the said Ordinance is hereby repealed and the following substituted therefor:—

"6. The Lieutenant-Governor-in-Council may, from time to time, determine what officers or persons it is necessary to employ for any of the purposes mentioned in this Ordinance, assign their names of office, prescribe their duties and salaries and make the necessary appointments."

2. Sub-section (a) of Section 7 of "The School Ordinance" is hereby amended by striking out the words "and grant certificates of qualification" at the end thereof.

3. Sub-section (c) of Section 7 of the said Ordinance is hereby amended by striking out all the words in the said sub-section after the word "Provisional" and substituting therefor the following:—

"Provided that, where Kindergarten Schools are authorized, the Trustees may engage any teacher who holds a Kindergarten certificate approved by the Council of Public Instruction."

5. Section 9 of the said Ordinance is hereby repealed and the following substituted therefor:—

"9. The Council of Public Instruction shall have power to suspend for cause the certificate of any teacher and also to cancel the same."

5. Section 10 of the said Ordinance is hereby repealed and the following substituted therefor:—

“10. The Council of Public Instruction may empower any person to call any school meeting required to be held under this Ordinance when the person or persons, invested with the power to do so, neglect or refuse to act.”

6. Section 11 of the said Ordinance is hereby repealed.

7. The following sub-section is hereby added to Section 39 of the said Ordinance:

“(1) The Chairman of the annual school meeting shall, in case of an equality of votes, give the casting vote, but he shall have no vote except as chairman.”

8. Sub-section (6) of Section 50 of the said Ordinance is hereby repealed and the following substituted therefor;

“(6) Suspend or expel any pupil whose habitual conduct is found to be injurious to the other pupils.”

9. Section 58 of the said Ordinance is hereby amended by striking out the word “notice” and substituting therefor the words “one day’s notice in writing.”

10. Section 62 of the said Ordinance is hereby amended by striking out the words “31st day of May” and substituting therefor the words “fifteenth day of April” and adding after the word “year,” where it first occurs therein, the words “or so soon thereafter as their school shall open.”

11. Sub-section (19) of Section 76 of the said Ordinance is hereby amended by striking out the words “Superintendent of Education,” and substituting therefor the words “any person authorized thereto by the Council of Public Instruction.”

12. Sub-section (1) of Section 80 of the said Ordinance is hereby amended by striking out all the words therein after “weeks” and substituting therefor the words “beginning on the 2nd day of July.”

13. Sub-section (4) of Section 91 of the said Ordinance is hereby amended by inserting after the word "date" therein the words "and duration."

14. Sub-sections 9 and 10 of the said Section 91 are hereby repealed.

15. The following sub-section is hereby added to Section 92 of the said Ordinance;

"(g) The daily average attendance shall be computed by dividing the aggregate attendance of the pupils for a quarter by the total number of legal teaching days in such quarter."

(1) When a School has been closed on account of sickness by order from a duly qualified medical practitioner the number of legal teaching days during which School has been closed may be deducted from the total number of legal teaching days.

16. Section 93 of the said Ordinance is hereby amended by striking out the words "in all standards from Standard III upwards," and substituting therefor the words "as follows."

17. Sub-section (a) and sub-clause (1) of sub-section (a) of the said Section 93 are hereby amended by inserting the word "and" between the words "arithmetic" and "geography," where they respectively occur therein, and striking out the words "and history."

18. Sub-sections (c) and (d) of the said Section 93 are hereby repealed.

19. Sub-section (a) of Section 94 of the said Ordinance is hereby amended by striking out the words "and had his sanction thereto" at the end thereof.

20. The following is added to sub-section (b) of Section 97 of the said Ordinance :

"This system of assessment shall become permanent

after a petition signed by three-fourths of the resident ratepayers has been presented for two years in succession. On a petition signed by three-fourths of the resident ratepayers the Trustees shall direct the assessor to revert to the former system of taxation."

21. Section 112 is hereby amended by adding thereto the following words "and an Overseer of an Unincorporated Town may have access to the assessment roll at all convenient office hours."

22. Section 168 of the said Ordinance is hereby amended by striking out all the words after "shall" to the end thereof and substituting the words "be registered as may be directed by the Council of Public Instruction."

23. Section 169 of the said Ordinance is hereby repealed.

24. Section 170 of the said Ordinance is hereby repealed.

25. Sub-clause (h) of sub-section (2) of Section 173 of the said Ordinance is hereby amended by striking out the word "regular."

26. Sub-section (d) of Section 184 of the said Ordinance is hereby repealed.

27. Section 185 of the said Ordinance is hereby repealed.

28. The words "Council of Public Instruction" are hereby substituted for the words "Superintendent of Education," wherever they occur in the said Ordinance or in the forms in the appendix thereto.

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## NO. 24 OF 1893.

AN ORDINANCE TO AMEND ORDINANCE NO. 24  
OF 1891-92, RESPECTING THE HERDING OF  
ANIMALS.

[Assented to 16th September, 1893.]

The Lieutenant-Governor, by and with the advice and consent of the Legislative Assembly of the Territories, enacts as follows :—

1. Ordinance No. 24 of 1891-92 intituled "An Ordinance to amend and consolidate as amended the Ordinances respecting the Herding of Animals" is amended by adding thereto the following Section :

(1) Any person who drives the stock of any other person upon any crop or premises for the purpose of having the stock so driven impounded shall, upon summary conviction before a Justice of the Peace be liable to a fine not exceeding one hundred dollars or to be imprisoned for a term not exceeding one year.

2. Section 15 of the said Ordinance is amended by inserting the following words after the word "animal," where it occurs in the seventh line, "and shall also forward a copy of said notice to the Lieutenant-Governor-in-Council for publication."

3. Section 15 of the said Ordinance is hereby further amended by striking out the word "Twenty," where it occurs in the seventh line thereof, and substituting the word "Sixty" in lieu thereof.

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## NO. 25 OF 1893.

AN ORDINANCE TO ABOLISH PRIORITY AMONG  
EXECUTION CREDITORS.

[Assented to 16th September 1893.]

The Lieutenant-Governor, by and with the advice and consent of the Legislative Assembly of the Territories, enacts as follows:—

1. This Ordinance may be cited as “The Creditors Relief Ordinance.”

2. In this Ordinance the word “Sheriff” shall include Deputy Sheriffs, duly appointed Bailiffs, Coroners and any other person discharging the duties of Sheriff in the particular case or for the time being; the word “Judge” shall mean a Judge of the Supreme Court of the North-West Territories.

3. Subject to the provisions hereinafter contained there shall be no priority among creditors by execution from the Supreme Court of the North-West Territories.

(a) In case a Sheriff levies money upon an execution against the property of a debtor, he shall forthwith enter in a book, to be kept in his office, open to public inspection without charge, a notice stating that such levy has been made, and the amount thereof; and the money shall thereafter be distributed rateably amongst all execution creditors whose writs were in the Sheriff's hands at the time of the levy or who shall deliver executions to the said Sheriff within one month from the entry of notice, or within such further time as may be ordered by a Judge.

(b) The notice shall state the day upon which it was entered and may be in Form A given in the Schedule hereto.

(c) Where proceedings are taken by the Sheriff or other officer for relief under any provisions relating to interpleader, those creditors only who are parties thereto and who

agree to contribute *pro rata* (in proportion to the amount of their executions) to the expense of contesting any adverse claim shall be entitled to share in any benefit which may be derived from the contestation of such claim so far as may be necessary to satisfy their executions. Provided however in case the money is ordered to be paid into Court by the Sheriff pending the trial of an interpleader issue, the entry to be made by the Sheriff shall not be made until the said money is again paid out of Court to the Sheriff for distribution. The Court or Judge may direct that one creditor shall bear the carriage of the interpleader proceedings on behalf of all creditors interested, and the costs thereof, as between advocate and client, shall be a first charge upon the moneys or goods which may be found by the proceedings to be applicable upon the executions.

(d) In case the Sheriff shall, subsequently to the entry of the notice but within the month, levy a further amount upon the property of a debtor, the same shall be dealt with as if such amount had been levied prior to the entry of the notice; but if after the month a further amount is levied a new notice shall be entered; and the distribution to be made of the amount so levied and of the further amount levied within a month of the entry of the last mentioned notice shall be governed by the entry thereof in accordance with the foregoing provisions of this Section; and so on from time to time. Provided however that the Judge may on application delay any of such distributions or any part thereof to give reasonable time for the obtaining judgment as also to fix a date for such distributions.

(e) In case a debtor voluntarily, and without any sale by the Sheriff, pays to the Sheriff part of the amount owing, in respect of an execution in the Sheriff's hands, and there is at the time no other execution in the Sheriff's hands, the Sheriff is to apply the same on the execution so in his hands: and subsections "a," "b," "c" and "d" of this Section shall not apply to the money so received by the Sheriff.

4. No creditor shall be entitled to share in the distribution of money levied from the property of a debtor unless

by the delivery of a writ of execution he has established a claim against the debtor either alone or jointly with some other creditor or creditors.

5. The Clerk of the Court shall keep a book in which before issuing an execution for a claim he shall enter the following particulars with reference to every claim in respect of which he issues an execution under this Ordinance:—

(a) The name of every claimant and of every debtor.

(b) The date of entry of judgment.

(c) The amount of debt exclusive of costs.

(d) The amount of costs.

(e) If the proceedings have been set aside, this fact, and shortly the reason therefor.

(1) The entry shall (subject to the provisions of this Ordinance) be an award of judgment for the debt and costs, and shall have the same effect as an entry of judgment for non-appearance to a writ for a debt or liquidated demand. The Clerk shall index the entries in the book alphabetically under the name of every debtor.

(2) In case the original papers happen to be lost or destroyed a certified copy of the entry in the book shall be evidence of all matters therein set forth.

6. In case the debtor, without any sale by the Sheriff, pays the full amount owing in respect of the executions in the Sheriff's hands at the time of such payment and no other execution has been placed in his hands, or in case all executions in the Sheriff's hands are withdrawn no notice shall be entered as required by Section 3 of this Ordinance and no further proceedings shall be taken under this Ordinance against the debtor by virtue of the executions having been in the Sheriff's hands.

(1) Save as aforesaid, after an execution has been filed with the Sheriff, the withdrawal or expiry of the writ,



upon which the proceedings are founded or any stay upon the writ, or the satisfaction of the plaintiff's claim thereon, or the setting aside or return of the writ shall not affect the proceedings to be taken under this Ordinance, and except so far as the action taken in regard to the writ may affect the amount to be levied, the Sheriff shall proceed and levy upon the goods or lands of the debtor, or both, as he would have proceeded had the writ or writs remained in his hands in full force to be executed and may also take the like proceedings as he would have been entitled to take had the writ been a writ of *renditioni exponas*.

7. Where there is in any Court a fund belonging to an execution debtor and to which he is entitled, the same, or a sufficient part thereof to pay the executions in the Sheriff's hands, may, on application of the Sheriff or any party interested, be paid over to the Sheriff, and the same shall be deemed to be money levied under execution within the meaning of this Ordinance.

8. One seizure by the Sheriff of the goods and lands of the debtor shall be deemed sufficient and shall be deemed a seizure on behalf of all creditors sharing under such seizure as hereinbefore provided and where the amount levied by the Sheriff is not sufficient to pay the execution debts, with costs in full, the money shall be applied to the payment rateably of such debts and costs of the creditors, after retaining the Sheriff's fees, and after payment in full of the extra cost of seizure and sale incurred by the creditor at whose instance and under whose execution the seizure and levy were made.

9. Where money is to be distributed under this Ordinance the Sheriff shall not be entitled to poundage as upon separate writs, but only upon the net proceeds of the estate distributed by him, and at the same rate as if the whole amount had been payable under one writ.

10. When money is made upon a writ the same shall be taken for the purposes of the Sheriff's return, and otherwise to be made upon all the writs entitled to the benefits thereof, and the Sheriff shall upon payment being made to the person entitled upon such writ, endorse thereon a

memorandum of the amount so paid, but he shall not, except on the request of the party issuing the writ or by direction of the Court out of which the same issues or of a Judge of such Court return the writ until the same has been fully satisfied, or unless the same has expired by effluxion of time, in which case the Sheriff shall make a formal return of the amount paid thereon.

(1) The like proceedings may be taken to compel payment by the Sheriff of money payable in respect of an execution or other claim as can now be had to compel the return by the Sheriff of a writ of execution.

11. The Sheriff shall, pending the distribution of moneys levied, keep in the said book mentioned in Section 3 of this Ordinance, in his office, a statement according to Form B in the Schedule hereto, shewing, in respect of any debtor of whose property money has been levied, the following particulars :—

(a) The amounts levied and the dates of levy.

(b) Each execution in his hands at the time of entering the notice, Form A, required by Section 3, or subsequently received during the month, the amount thereof for debt and costs, and the date of receipt, and such statement shall be amended from time to time as an additional amount is levied, or a new execution is received.

12. Where the money levied is insufficient to pay all claims in full, and the time has come for distributing the money levied, the Sheriff shall forthwith unless otherwise ordered distribute the same as directed by this Ordinance.

13. The Sheriff shall at all times without fee answer any reasonable question which he may be asked orally in respect to the estate of the debtor by a creditor, or any one acting upon behalf of a creditor, and shall facilitate the obtaining by him of full information as to the value of the estate, and the probable dividend to be realized therefrom in his district, or any other information in connection with the estate which the creditor may reasonably desire to obtain.

14. In case a Sheriff has money in his hands, which, by reason of the provisions of this Ordinance, or otherwise, he cannot immediately pay over to the execution creditors he shall deposit the money in some incorporated bank designated for this purpose, from time to time by order of the Judge, or where no such order is made, then in some incorporated bank in which the public money of the Judicial District is there being deposited: the deposit to be made in the name of the Sheriff in trust.

15. No proceeding under this Ordinance shall be void for any defect of form, and the rules for amending or otherwise curing irregularities or defects, which may from time to time be in force in the Supreme Court of the North-West Territories, apply to this Ordinance, and any proceedings wrongfully taken under this Ordinance may be set aside by the Judge with or without costs as he may think fit.

16. The provisions of this Ordinance shall not apply to the proceeds of any seizure allowed under Section 3 of Chapter 45 of The Revised Ordinances, 1888.

17. All persons in the employment of an execution debtor at the time of the notice mentioned in sub-section (a) of Section 3 of this Ordinance, or within one month before such entry, who shall become entitled to share in the distribution of money levied out of the property of a debtor, shall be entitled to be paid out of such money the wages or salary due to them by the execution debtor, not exceeding one month's wages or salary, in priority to the claims of the other creditors of the execution debtor, and shall be entitled to share *pro rata* with such other creditors as to the residue, if any, of their claim.

18. This Ordinance shall come into effect on the First day of January, 1894, on and from which day all priorities shall cease as hereinbefore provided, and all moneys then or thereafter realized under execution in the Sheriff's hands shall be distributed under the provisions of this Ordinance.

## SCHEDULE.

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FORM A.*Section 3, Sub-Section b.*

## SHERIFF'S NOTICE.

Notice is hereby given that I have, by virtue of certain executions delivered to me against the goods and chattels (or lands) of C. D., levied and made out of the property of the said C. D. the sum of \$

And notice is further given that this notice is first posted in my office on the            day of            18           , and that, unless otherwise ordered, distribution of the said money will be made amongst the creditors of the said C. D. entitled to share therein, at the expiration of one month from the said            day of            18           .

T. G.,  
Sheriff.

Dated, etc.

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## FORM B. (SECTION 11.)

## SHERIFF'S STATEMENT OF EXECUTIONS IN HAND AGAINST C.D.

| Cause.                     | Proceeding.  | Claim<br>Without<br>Costs. | Costs.  | Date of Receipt by<br>Sheriff. | Amount levied. | Date of Levy.                                 |
|----------------------------|--------------|----------------------------|---------|--------------------------------|----------------|-----------------------------------------------|
| A.B. vs. C.D.              | Fi-fa goods. | \$504                      | \$30.00 | 18 Feb'y, 1893                 | \$500.00       | 1 May, 1893.                                  |
| F.G. vs. C.D.<br>and E. G. | Fi-fa lands. | \$400                      | \$20.00 | 20 Feb'y, 1893                 | \$200.00       | 3 May, 1893.<br>Nothing made against<br>E. G. |

## NO. 26 OF 1893.

## AN ORDINANCE TO AMEND "AN ORDINANCE RESPECTING THE LEGAL PROFESSION" AND ORDINANCE NO. 19 OF 1890, AMENDING THE SAME.

*(Assented to 16th September, 1893.)*

The Lieutenant-Governor, by and with the advice and consent of the Legislative Assembly of the Territories, enacts as follows :—

1. Subsection (2) of Section 2 of "An Ordinance respecting the Legal Profession" is hereby amended by striking out the words "to the satisfaction of such Judge and of a "duly enrolled Advocate of the Territories, to be named by "the Judge."

2. The following subsections are hereby added to the said Section 2 of the said Ordinance:—

"(4) The Lieutenant-Governor in Council shall appoint not more than three Examiners, who shall be duly enrolled Advocates of the Territories, who shall constitute a Board of Examiners for the purposes of this Ordinance."

"(5) The Examination prescribed by this Ordinance shall be conducted at such times and places and in such manner as the Lieutenant-Governor-in-Council shall, by order, determine."

"(6) Candidates for such examination shall give one month's notice, in writing, previous to the date fixed for such examination, which notice shall mention the place at which the Candidate wishes to present himself for such examination."

"(7) Such notice shall be sent to the Clerk of the Executive Committee."

"(8) Each Candidate shall send with such notice the sum of \$10.00 which shall belong to the General Revenue Fund and shall be used towards defraying the expenses of examination."

"(9) The expenses of such examination shall be paid by the Lieutenant-Governor-in-Council out of the General Revenue Fund.

3. Sub-section (b) of Section 2 of Ordinance No. 19 of 1890 is hereby amended by striking out the words "Board of Education for the Territories" therein and substituting therefor the words "Council of Public Instruction" and by inserting after the words "Council of Public Instruction" the words "or a statement signed by the Secretary of the " said Council of Public Instruction that he possesses " scholarship equivalent to that required for a Second Class "Non-professional Certificate as a Teacher for the Territories."

## NO. 27 OF 1893.

AN ORDINANCE TO AMEND AND CONSOLIDATE  
AS AMENDED THE SEVERAL ORDINANCES  
RELATING TO PRAIRIE AND FOREST FIRES.

[Assented to 16th September, 1893.]

The Lieutenant-Governor, by and with the advice and consent of the Legislative Assembly of the Territories, enacts as follows:—

1. Any person, company or corporation who shall either directly or indirectly, personally or through any servant, employee or agent, kindle a fire and let it run at large in any wood, prairie or open ground, not the property of such person, company or corporation or permits any fire to pass from his own woods, prairies or grounds, or who allows any fire under his charge, custody or control, or under the charge, custody or control of any servant employee or agent to run at large, shall, on conviction thereof, be fined in a sum not less than ten dollars and not exceeding two hundred dollars, and in default of payment shall be imprisoned for any term not exceeding six months.

2. No person shall kindle a fire for the purposes of guarding any property, or for clearing land, unless he has present during the whole time of the burning six persons with proper appliances for putting out fires, or unless the fire is kindled within a ploughed break not less than ten feet wide.

(a) Any person neglecting to comply with the provisions of this Section shall be liable to a fine not exceeding fifty dollars.

3. One half of any fine shall be paid to the informer.

4. Nothing in this Ordinance shall bar or prevent the owner of private property from recovering damages from an offender against the first Section of this Ordinance.



5. The Lieutenant-Governor-in-Council may appoint fire guardians, having the power of constables, to enforce the provisions of this Ordinance, who, together with all Justices of the Peace, shall have the power to call out any male person within ten miles of a prairie fire to proceed at once, and help to extinguish said fire, and any person refusing to do so shall be liable to a fine of five dollars, with costs of prosecution.

6 The Lieutenant-Governor-in-Council may, where it is deemed expedient, employ Counsel for the prosecution of offences under this Ordinance, whose services shall be paid for out of the General Revenue Fund of the Territories.

7. All members of the North West Mounted Police Force shall be *ex officio* fire guardians under the provisions of this Ordinance.

8. The Lieutenant-Governor-in-Council may, in a proper case, order any penalty under this Ordinance to be remitted or, if paid, to be refunded.

9. Chapter 20 of The Revised Ordinances, 1888, and the several Ordinances amending the same are hereby repealed.

10. This Ordinance may be cited as "The Prairie Fire Ordinance, 1893."

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NO. 28 OF 1893.

AN ORDINANCE RESPECTING THE [LIMITATION  
OF ACTIONS RELATING TO REAL  
PROPERTY.

[*Assented to 16th September, 1893.*]

The Lieutenant-Governor, by and with the advice and consent of the Legislative Assembly of the Territories, enacts as follows:—

1. The provisions of the “Real Property Limitation Act, 1874,” being Chapter 57 of the Statutes of the Imperial Parliament, passed in the thirty-seventh and thirty-eighth years of Her Majesty’s reign, are hereby declared to be in force, and to have been in force, in the Territories, since the passing thereof.

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## NO. 29 OF 1893.

AN ORDINANCE TO FURTHER AMEND "THE  
LIQUOR LICENSE ORDINANCE, 1891-92."

[Assented to 16th September, 1893.]

The Lieutenant-Governor, by and with the advice and consent of the Legislative Assembly of the Territories, enacts as follows :—

1. Section 146 of "The Liquor License Ordinance, 1891-92" is hereby repealed so far as the same applies to the following described portion of the Provisional District of Alberta, namely : All that portion of Alberta North of a line drawn as follows :—commencing at the point of intersection of the Western boundary of Alberta by the line between Townships numbered 57 and 58 thence East to the Western boundary of Range 26 West of the Fourth Meridian thence North along the Western boundary of the said Range 26 to the line between Townships numbered 64 and 65 and thence East along the said line to the Eastern boundary of Alberta.

2. This Ordinance shall not come into force until proclaimed by the Lieutenant-Governor.

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## NO. 30 OF 1893.

## AN ORDINANCE TO GIVE LEVI THOMSON A CERTAIN STATUS AS A STUDENT-AT-LAW.

[Assented to 16th September, 1893.]

Whereas Levi Thomson, formerly of the City of Toronto, but now of Ellisboro in the North-West Territories, has by his petition represented that he on the tenth day of February A.D. 1879, was articted to Daniel Edmund Thomson, of the City of Toronto in the Province of Ontario, one of the Solicitors of the High Court of Justice of said Province of Ontario, having prior thereto and in the month of January, A.D., 1879, passed the preliminary examination prescribed by the Law Society of Upper Canada, and served the said Daniel Edmund Thomson continuously until the eleventh day of March A.D. 1882, being a period of three years;

And whereas for the reasons aforementioned, the said Levi Thomson has prayed that an Ordinance may be passed to declare that he, the said Levi Thomson, shall have the same status as a student-at-law under the Ordinance respecting the Legal Profession and amendments thereto, for the purpose of enrolment as an Advocate under the said Ordinance and amendments, as if he had been duly articted to a practising Advocate of the North-West Territories, and had duly served thereunder for the period of three years:

And whereas it is expedient to grant the prayer of the said petition;

Therefore, be it enacted by the Lieutenant-Governor, by and with the advice and consent of the Legislative Assembly of the Territories, as follows:—

1. That, upon the said Levi Thomson producing to a Judge of the Supreme Court satisfactory evidence of his having passed the preliminary examination prescribed by



the Law Society of Upper Canada or Ontario, and of his having served continuously for three years under articles as clerk to a practising Solicitor of the Supreme Court of Ontario, and upon his passing the examination, taking the oath and paying the fee prescribed by the said Ordinance and amendments in the case of articulated clerks, he shall be entitled to be enrolled as an Advocate of the North West Territories.

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NO. 31 OF 1893.

AN ORDINANCE TO CONFIRM A CERTAIN AGREEMENT BETWEEN THE MUNICIPALITY OF THE TOWN OF EDMONTON AND THE EDMONTON ELECTRIC LIGHTING AND POWER COMPANY, LIMITED.

[Assented to 16th September, 1893.]

Whereas The Municipality of the Town of Edmonton and The Edmonton Electric Lighting and Power Company, Limited, have entered into an agreement of which Schedule "A" hereto is a copy ;

And whereas it is expedient to confirm the said agreement ;

Therefore the Lieutenant Governor, by and with the advice and consent of the Legislative Assembly of the Territories, enacts as follows :—

1. The agreement, a copy whereof appears in the Schedule to this Ordinance, marked "A," is hereby ratified and confirmed.
2. The said, The Edmonton Electric Lighting and Power Company, Limited, are hereby authorized and empowered to issue debentures to the amount of \$10,000, and the said The Municipality of The Town of Edmonton is hereby authorized and empowered to guarantee the payment of the said debentures according to the terms and intent of the said agreement.
3. The said The Edmonton Electric Lighting and Power Company, Limited, are hereby authorized and empowered to execute a mortgage or mortgages indemnifying the said The Municipality of the Town of Edmonton, according to the terms and intent of the said agreement, against all liability by reason of such guarantee : and the said mortgage or mortgages are hereby declared to be exempt from the pro-

visions of "The Bills of Sale Ordinance" so far as property, not subject to "The Territories Real Property Act," shall be comprised in the said mortgage or mortgages.

4. The power or capacity of the said The Municipality of the Town of Edmonton to borrow or contract debts shall in no wise be reduced or otherwise affected by any guarantee which may be given by the Municipality as aforesaid.

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## SCHEDULE A.

ARTICLES OF AGREEMENT MADE THIS SEVENTEENTH DAY OF MAY A.D. 1893.

Between :—

The Municipality of the Town of Edmonton hereinafter called “The Town” of the one part and

The Edmonton Electric Lighting & Power Company, Limited, hereinafter called “The Company” of the other part.

Whereas the Company was incorporated by Letters Patent issued under Ordinance No. 30 of The Revised Ordinances of the North-West Territories for the purpose of the construction, maintenance and operation of works for the production, sale and distribution of Electricity for the purposes of light, heat and power.

And whereas in pursuance of the objects aforesaid the Company had established, and is maintaining in operation, a System of Electric Lighting within the Municipality.

And whereas, owing to the rapid development of the Municipality the Company has found that its present plant is insufficient in capacity and power to supply the increasing requirements of the Town and its inhabitants.

And whereas the Company is willing to increase the power and capacity of its plant, at its own expense, so as to meet the requirements of the Town and its inhabitants, but are unable to do so for want of funds for the purpose.

And whereas, as a means of enabling the Company to raise the necessary funds, it has been suggested that the Company should issue its debentures for the required amount, and that the Town should guarantee the payment thereof.

And whereas the Company is willing to adopt the said suggestion.

And whereas a petition has been presented to the Municipal Council of the Town in the words following :—

“To the Municipal Council of the Municipality of the Town of Edmonton :

“We, the undersigned ratepayers of the Municipality, entitled to vote upon by-laws requiring the assent of the electors of the Municipality, do hereby request the Municipal Council to enter into an agreement with the Edmonton Electric Lighting and Power Company, Limited, (subject to ratification by the Legislative Assembly), whereby provision shall be made (1) for the guaranteeing of the Company's debentures by the Municipality, to an amount not exceeding \$10,000, payable in ten years from their dates, (and to be liquidated by a half-yearly sinking fund), with interest at the rate of 5 per cent. per annum, payable half-yearly in the meantime for the purpose of enabling the Company to increase the power and capacity of



their present works, plant and apparatus, and to add to and extend it ; (2) for the payment of the amount of such debentures and interest by the Company, and for such payment being secured by a first charge upon the whole of the Company's present and future works, plant and apparatus ; and (3) for such other terms and conditions as the Municipal Council may see fit to exact."

And whereas the said petition has been signed by the ratepayers of the Municipality entitled to vote on by-laws, requiring the assent of the electors, to a number largely in excess of a two-thirds majority thereof ;

And whereas the Municipal Council of the Town deem it to be in the interests of the Municipality and its inhabitants to grant the request of the said Petitioners ; and have by by-law in that behalf authorized the execution of these presents on the part of the Town.

Now the parties hereto covenant the one with the other as follows :—

(1) In case the Company issues its debentures to a principal amount not exceeding \$10,000 payable within ten years from their date with interest payable half-yearly in the meantime at the rate of 5 per cent. per annum.

(2) And in case the Company shall, for the purpose of indemnifying the Town against all liability upon its guarantee of payment of the said debentures hereinafter provided for, execute one or more mortgages (according as the Company does or does not acquire other additional lands) in favor of the Town, comprising (firstly) all the Real Estate of the Company owned by the Company at the date of the mortgage and not included in any prior mortgage given by the Company to the Town under this agreement ; (secondly) all the buildings, engines, boilers, pumps and other machinery, plant, works and apparatus which shall be on the land comprised in the mortgage at the date of the mortgage or which shall afterwards during the currency of the mortgage be erected or placed thereon ; (thirdly) all the poles, wires, transformers, fittings and other plant and apparatus at the date of the mortgage or at anytime afterwards during the currency of the mortgage owned by the Company in any part of the Municipality ; and (fourthly) all exclusive privileges, and other franchises within the Municipality, which the Company now have or may at any time hereafter acquire or become entitled to during the currency of the mortgage ; in which mortgages there shall be clauses to the following effect :—

(a) Providing for the payment by the Company to the Treasurer of the Town half-yearly during each year of the currency of the debentures of the Company guaranteed by the Town, not later than one day prior to the maturing of the interest upon the debentures, a sum sufficient to enable the Town to pay the said interest, and to the trustees of the sinking fund of the Municipality half-yearly during each year of the currency of the debentures such a sum as will, if capitalized yearly with interest at 5 per cent. per annum, liquidate the principal of the debentures guaranteed by the Town ; provided that if at the time of the maturity of the principal there shall be to the credit of the Company in the hands of the Trustees more than sufficient to pay the principal the surplus shall be paid to the Company ; but if on the contrary there shall be a deficiency the Company shall make up the deficiency to the Town.

(b) Binding the Company, until the mortgage is fully paid and satisfied, to maintain and operate their Electric Light plant so as to satisfy the exi-

gencies of the Town and its inhabitants but so as not to oblige the Company to furnish a greater power or capacity than will be sufficient to supply 2000 lights of 16 candle power each or an equivalent thereto.

(c) Binding the Company in the usual manner to insure the Company's buildings and other property commonly insured, to the full amount for which insurance can be obtained not exceeding the full amount of the Town's liability for the time being on behalf of the Company.

(d) Providing that, if default should be made in payment or in the performance of any covenant contained in the mortgage, the Town notwithstanding its being mortgagee may buy in the property comprised in the mortgage in the same manner and under no greater or other liability than if it were not mortgagee.

(e) Prohibiting the Company from charging the Town, or any of the inhabitants thereof, for Electric Lights supplied by the Company at a greater rate than a charge calculated upon the basis of seven-eighths of a cent per ampere per hour.

(3) And in case the Company's title is perfect and there are no prior mortgages, incumbrances, liens or charges upon the property comprised in the mortgage,

Then the Town will by a good and sufficient instrument or instruments in that behalf guarantee the due payment of the principal and interest of the debentures of the Company to be issued as aforesaid to the amount of \$3000; whereof the Company hereby covenants with the Town to expend no part in payment of current or running expenses or in payment of dividends or otherwise to the shareholders of the Company.

(4) And in case, furthermore, the Company shall make such additions to its present land, works, plant or apparatus as will enable it to furnish at any time within the limits of the Municipality, electric lights to the number of not less than 2000 of 16 candle power each or an equivalent thereto.

(5) And in case the \$3000 hereinbefore mentioned shall not have been expended in contravention of the Company's covenant in respect thereof hereinbefore contained.

Then the Town will by good and sufficient instrument or instruments in that behalf guarantee the due payment of the principal and interest of the debentures of the Company to be issued as aforesaid to such further amount not exceeding \$7000 as shall have been invested by the Company in making such additions as aforesaid to its lands, works, plant or apparatus comprised in any mortgage to the Town as aforesaid or otherwise in pursuance of the objects of the Company as set forth in its letters patent of incorporation.

(6) And the Company will from time to time and at all times after the execution of any such mortgage as aforesaid upon every reasonable request and at the cost and charges of the Company make, do and execute or cause to be made, done and executed all such further or other acts, deeds, things devices, covenants, transfers, mortgages, for the further, better or more perfectly carrying out and effecting the full and true intent and spirit of this agreement and of the said mortgage or mortgages, as may be reasonably required by the Town.

This agreement shall take effect upon the passing of an Ordinance of the Legislative Assembly of the North-West Territories, ratifying and confirming it and authorizing and empowering the Company to issue debentures as aforesaid, and the Town to guarantee the payment thereof, and also exempting any such mortgage so far as it affects property not subject to the Territories Real Property Act from compliance with the provision of "The Bills of Sale Ordinance," and declaring that the power of the Town to borrow or contract debts shall not be affected by any guarantee given by the Town under this agreement.

In Witness Whereof, the Mayor and Clerk of the Town have hereunto set their hands and affixed the corporate seal of the Town, and the Managing Director and Secretary of the Company have hereunto set their hands and affixed the corporate seal of the Company.

|                                |                            |
|--------------------------------|----------------------------|
| Signed, Sealed and delivered ) | (Sd) M. McCAULEY, Mayor.   |
| in the presence of             | (Sd) A. G. RANDALL, Clerk. |
| (Sd) N. D. BECK. )             |                            |

[CORPORATE SEAL OF THE TOWN].

(Sd) EDMONTON ELECTRIC LIGHT & P. CO., LTD.,  
Per ALEX. TAYLOR, Manager.  
(Sd) ST. GEO. JELLETT, Sec'y-Treas. Edmonton Electric Lighting and Power Company, Limited.

[CORPORATE SEAL OF THE COMPANY.]

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NO. 32 OF 1893.

## AN ORDINANCE TO EMPOWER THE MUNICIPALITY OF THE TOWN OF EDMONTON TO CONSTRUCT AND OPERATE A TRAMWAY.

*[Assented to 16th September, 1893.]*

1. The word "Tramway" shall mean a double line of iron rails laid parallel to each other for the purpose of facilitating the passage of cars specially adapted for carrying traffic over such tramway, which rails shall be laid and kept (as nearly as practicable) flush with the streets upon which they are laid and conforming to the grades of the same: and so as to cause the least possible impediment to the ordinary traffic of the streets; and all lands specially acquired for the purposes of the tramway which may be constructed under the provisions of this Ordinance, and all rolling stock, means of supplying power (whether by electricity or animals), buildings, ferries and appliances generally, acquired for the working or maintenance thereof, together with all rights and privileges which may be granted in respect thereof, shall be deemed to be appurtenant to such tramway, unless a contrary intention shall appear.

2. The word "street" shall mean any road, street, lane or other allowance which has been dedicated or otherwise acquired by any proper authority for the purposes of public travel.

3. The word "Town" shall mean the municipality of the town of Edmonton.

4. The words "Town Council" shall mean the council of the municipality of the Town of Edmonton.



5. The words "tramway account" shall mean an account which, in the event of the Town Council undertaking the construction and operation of the tramway, shall be opened and kept under and according to by-law of the Town Council, which account shall be distinct and separate from all other accounts of the Town; in which account shall be set down a statement of all sums of money provided or procured for the purposes of the tramway, including all matters and things necessary for its construction, maintenance or operation, the sums of money expended and the liabilities incurred, the full list of all property held, with the value thereof, and a statement of all moneys received on account of the tramway.

6. The words "tramway fund" shall mean the assets and liabilities of the Town included in the tramway account, and shall in general mean the interest of the Town in the tramway and all matters and things connected with its construction, maintenance and operation.

7. The word "company" shall mean any company incorporated under authority of the parliament of Canada for the purpose of operating or of constructing and operating or of owning, constructing and operating a tramway in and in the vicinity of Edmonton.

8. The Town is hereby authorized and empowered to construct, maintain, equip and operate and from time to time to remove, change and renew, as may be found necessary or expedient, a single or double track tramway, with all necessary switches, side tracks and turn outs for the passage of cars, carriages and other conveyances adapted to the same, upon and along any of the streets of the Town and upon any lands therein acquired for the purpose; and also, in connection therewith and as a tributary thereto, over and along any streets, or lands acquired for the purpose, outside the Town but not extending beyond five miles from the Municipal limits of the said Town as such limits exist at the time of the passing of this Ordinance, and in particular from the limits of the said



Town to a point on the Calgary & Edmonton railway at or near the present northerly terminus of the said railway; and may carry passengers and freight thereon by the power of animals or of electricity or by such other motive power, except steam, as the Town may from time to time deem expedient; and may establish works to supply electricity for such power and may also construct, erect and maintain all necessary buildings, machinery, telephone and telegraph lines and other appliances and conveniences for the purposes of such tramway and works, including the erection of poles upon any and all streets, and lands acquired for the purpose, upon which the Town may deem it expedient to construct and operate the tramway; and also may construct and operate such ferry or ferries across the Saskatchewan river for the purposes of the said tramway as they may deem expedient for the use of the tramway during the summer and may lay a track across the Saskatchewan river upon the ice during the winter if the same is deemed expedient.

Provided that the Town Council may make all necessary surveys and plans in regard to such tramway at any time after the passage of this Ordinance and its confirmation by the Parliament of Canada as hereinafter provided, but it shall not undertake any construction work on the said tramway or incur any liability on account of the purchase of land or material therefor, until a by-law providing for such construction and for raising by way of loan upon the credit of the Town at large such portion of the amount necessary for the construction thereof as the Town Council shall deem expedient has been assented to by the ratepayers in the manner hereinafter provided.

9. The by-law mentioned in the next preceding Section shall set forth,—

(a) The location and extent of the track of the proposed trainway and whether it is to be a single or double track; but this description need not include side tracks, turn outs, switches, etc.

(b) The total estimated cost of the road bed, including grade, ties, rails, etc.

(c) The lands which it will be necessary to acquire for the purposes of the tramway and an estimate of the cost of the same.

(d) The kind of power by which it is proposed to operate the tramway, the estimated amount of power required and the estimated cost of the same.

(e) The quantity and description of rolling stock, buildings, ferries, and appliances generally which it is proposed to use, and the estimated cost of the same.

(f) The estimated total cost of the tramway completed and ready for operation.

(g) The amount of money which it is proposed to borrow on the credit of the Town for the purposes of the said tramway with the terms upon which it is proposed to borrow and such further particulars in relation to such loan as are required by "The Municipal Ordinance" and the amendments thereto in force at the time of the submission of such by-law in the case of by-laws for contracting debts or borrowing money in the manner provided in such By-law.

10. It is hereby provided that the said tramway, with its appurtenances, and all revenues derived therefrom shall be held to be entirely separate from all other assets of the Town, and shall not be liable in any way for any debt heretofore or which may hereafter be contracted by the Town, except as provided in the next succeeding Section.

11. After a by-law in accordance with the provisions of Sections 8 and 9 hereof, authorizing the construction and

operation of the tramway, has been assented to by the rate-payers in the manner hereinafter provided, the Town Council may, in addition to the loan provided for by said by-law, pass a by-law to borrow on the security and credit of the tramway and its appurtenances and the profits arising from the working thereof, such sum or sums of money as may be deemed expedient for the purpose of assisting in the construction, equipment, improvement and operation of the tramway, or for any one or more of such purposes.

(a) Such by-law may provide for the making or issue by way of security for the money so borrowed and the interest thereon of mortgages, bonds, debentures, or other securities upon, or in respect of the tramway and its appurtenances, and the profits arising from the working thereof, payable at such time or times, at such rate of interest, and upon such terms as may be deemed expedient.

(b) Such by-law may further provide that, in the event of default being made in the payment of any portion of the moneys so borrowed or the interest thereon, or of any premiums upon any insurance policy upon the tramway or any of its appurtenances, the holder or holders of such mortgages, bonds, debentures, or other securities shall be at liberty, as often as such default shall be made, and upon such terms as may be prescribed by said by-law, to enter upon and take possession of the tramway and its appurtenances and work and operate the same until all arrears of principal money and interest and insurance premiums, and the reasonable costs and expenses of taking possession of, and working the same shall be fully paid and satisfied, and that they may, in their discretion, and upon such terms as may be prescribed by such by-law, advertise and sell the tramway and its appurtenances by public auction and apply the proceeds of such sale in repayment of the moneys so borrowed, the interest thereon, the said costs and expenses, and the reasonable costs and expenses of such sale; the balance, if any remain after such payment, to be paid over to said Town.

(c) Such by-law may further provide that in case of the

holders of any such mortgages, bonds, debentures or other securities taking possession of the tramway and its appurtenances, and working the same, or in case of a sale thereof by them under the provisions of such by-law, such holders or the purchaser or purchasers at any such sale, (as the case may be,) and their assigns shall have and possess and may exercise all the rights, powers, privileges and franchises, relating to the construction, maintenance, working and operation of the tramway and its appurtenances which are or may be granted to or conferred upon said Town by the provisions of this Ordinance and the Act hereinafter mentioned and any by-law of said Town which may be passed under the authority thereof, subject to the provisions of such Ordinance and Act and of any such by-law, and subject also to the right of the Town Council to reassume the ownership of the tramway and its appurtenances under the provisions of Section 22 of this Ordinance at the expiration of twenty years from the time said Town ceased to have possession of said tramway and its appurtenances, or at the expiration of any fifth year after said period of twenty years; and to settle by arbitration in the manner provided by Section 23 hereof, the manner in which the said tramway shall thenceforward be operated.

12. The Town may from time to time, subject to the provisions of any by-laws passed under the provisions of Sections 8 or 11 hereof, pass by-laws relating to the construction of the tramway; the time at which it shall be commenced, the manner of proceeding therewith, the streets and lands upon which it shall be located, the time of its completion, the terms and conditions of its extension, the construction, opening or closing of drains and sewers, the laying, repairing or taking up of gas or water pipes, and conduit tubes for electric wires, and the erection and height of poles for the support of trolley wires in the streets, and generally all matters connected with its management, the method of its operation, the pattern of rails and gauge of the road, the time and speed of running the cars and other conveyances, and the rates of fares for passengers and freight.

Provided, however, that in so far as any such by-laws



relate or apply to the part of the tramway outside the limits of the Town they shall not take effect until two months after their being passed and shall be subject to veto by the Lieutenant-Governor-in-Council at any time within that period.

13. In case any by-law passed under the next preceding Section hereof affects or relates or applies to any portion of the tramway situated outside the limits of the Town, a notice of the passing of such by-law stating the date of the passing thereof and the portion of the tramway and the lands outside the limits of the Town affected thereby, shall, within ten days from the passing thereof be published in some newspaper published in said Town; and within said period at least five copies of such by-law shall be posted up in conspicuous places at or as near as may be to the lands outside the town which are affected thereby, and within the same period a copy thereof shall be forwarded to the Lieutenant-Governor-in-Council.

14. The Town shall keep clean and in proper repair the streets between the rails and for a distance of eighteen inches at each side of the rails, the cost of which shall be a charge on the tramway fund, and the tramway fund shall be liable for any damage done by any action connected with the construction, equipment, or operation of the tramway; but if for any cause recourse cannot be had against the tramway fund then the Town shall be held fully liable for such damage.

Provided that action must be brought within six months after the damages have been sustained.

Provided further that the duties and obligations in respect of the tramway imposed by the next preceding Section shall be deemed to be imposed upon the Town only during such period or periods as the tramway shall be under the control of the Town and that in case the control thereof shall under the provisions of Sections 11 or 20



hereof be assumed by any person or persons or Company such duties and obligations shall be deemed to be cast upon the person or persons or Company having the control thereof for the time being.

15. All ordinary vehicles may travel in the tramway tracks where they are laid on streets, provided they do not interfere with or impede the running of the cars or other conveyances of the tramway: but the vehicles of the tramway shall have the right to use the tracks as against all other vehicles whatever: and no person shall ride or drive any animal or vehicle upon or near any track of the tramway in such manner as to in any way impede the passage thereon of any vehicle of the tramway, nor shall in any other manner whatsoever, or under any pretence whatever, obstruct or hinder the passage on, and the free use of the said tracks by the vehicles of the tramway.

(a) Any person contravening any of the provisions of this Section, on summary conviction thereof before a Justice of the Peace, shall be liable to a fine not exceeding \$10 and costs, and the payment of such fine and costs shall not relieve such person from full liability for all damages suffered by the tramway.

16. For the purpose of acquiring the lands necessary for the purposes of said tramway the Town Council shall have and possess all the powers relating to the expropriation of lands which by "The Municipal Ordinance," or any amendments thereto which may be in force at the time the same are sought to be exercised are conferred upon Town Councils for any of the purposes mentioned therein, but subject to the provisions thereof relating to the manner of such expropriation.

17. In case the Town finds it necessary to acquire any land for the purposes of the tramway outside its limits, such land being not more than one chain in width when required for right of way, nor more than one acre in extent in

any one place, if required for the erection of buildings of any kind, the Town Council shall, for the purposes of this Ordinance, be vested with all the powers which may be exercised by the Lieutenant-Governor-in-Council under Ordinance No. 10 of 1889, intituled "An Ordinance respecting the Expropriation of Lands."

18. The fare to be paid by a passenger on the tramway shall be fixed from time to time by by-law of the Town Council and the said fare shall be due and payable by every passenger on entering the car, and any person who fails to pay the fare when demanded by the conductor or driver, and refuses to leave the car when requested to do so by the conductor or driver, shall on summary conviction thereof before a Justice of the Peace be liable to a fine of not more than \$10 and to the costs of the prosecution.

19. The Town Council may pass by-laws regulating from time to time the rates to be paid on freight of every kind conveyed by the tramway, and the conditions of payment and delivery thereof.

20. The Town Council may when authorized so to do by by-law, assented to by the ratepayers in the manner hereinafter provided, enter into an agreement with a company empowered by Act of the Parliament of Canada to construct a tramway in the vicinity of Edmonton (such as is provided for in this Ordinance and subject to its provisions) relating to the construction and operation of the said tramway, for the cleaning, paving, macadamizing, repairing and grading of the streets upon which the tramway is laid, the construction, opening and repairing of drains or sewers and the laying of gas and water pipes in the said streets, the location of the tramway, and the place or places outside the municipality from or to which the same shall be constructed and operated, the particular streets along which the same shall be laid, the pattern of rails and the gauge of the road, the time and speed of running the cars or other conveyances, the amount of fares to be paid by passengers, and

the rates to be paid on freight, the exemption of the company's property from taxation for a period not exceeding ten years, the sum or sums to be paid by the Town to the company or by the company to the Town, the time in which the works are to be commenced, the manner of proceeding with the same and the time for completion, and generally for the safety and convenience of passengers and the prompt and safe delivery of freight.

Provided that any notices or advertisement of the intention of the Town Council to submit such a by-law, as is provided for in this Section, to the ratepayers (as required by the provisions of "The Municipal Ordinance" and amendments thereto) shall set forth in full the proposed agreement between the Town and the company.

21. The Town Council may pass by-laws and amend and repeal the same for the purpose of carrying into effect any such agreement; and such by-laws may contain all necessary clauses, provisions, rules and regulations for the conduct of all parties concerned and for enjoining obedience to such by-laws and also for facilitating the running of the company's cars or other conveyances and for regulating the traffic and conduct of all persons travelling upon the company's cars or other conveyances and upon the streets through which the tramway may pass.

22. The Town Council shall not grant to a company any privilege under this Ordinance for a longer period than twenty years, but at the expiration of twenty years from the passing of the first by-law which is acted upon conferring the right of laying rails on any street, or at such other earlier date as may be fixed by agreement, the municipal council may after giving six months notice prior to the expiration of the period limited, assume the ownership of the tramway, and its appurtenances, on payment of the value thereof to be determined by arbitration. In case the Town fails to exercise the right of assuming the ownership of the tramway at the expiration of the said period, the Town may exercise such right at the expiration of any fifth year thereafter upon giving one

years notice to the company, and the privileges of the company shall continue until the ownership is assumed by the Town.

23. The Town Council may at any time after the right of assuming the ownership of the tramway accrues to the Town require that the terms upon which the tramway shall thenceforward be operated be determined by arbitration under the "Arbitration Ordinance" and the terms, unless the parties in the meantime agree, shall be settled accordingly, and such arrangements shall remain in force for ten years. At the end of that period either party may require that the terms be settled anew in like manner for another period of ten years, but such settlement or agreement shall be without prejudice to the right hereinbefore conferred upon the municipality to assume the ownership of the tramway at the expiration of any fifth year.

24. Subject to any agreement between the council and the company the company may, as occasion may require, substitute sleighs for the cars or other conveyances commonly used.

25. All by-laws under the provisions of Sections 8, 11 and 20 hereof shall before the final passing thereof be submitted to a vote of the ratepayers of the Town in the manner provided by "The Municipal Ordinance" and the amendments thereto in force at the time of such submission and shall receive the assent of two-thirds of the duly qualified ratepayers voting thereon.

(a) The ratepayers qualified to vote on any such by-law shall be all male persons, unmarried women or widows of the full age of twenty-one years, who, at the time of the taking of such vote, are freeholders of real property in said Town and are rated as such upon the then last revised assessment roll of said Town for not less than four hundred dollars.

(1) For the purposes of this Section a married man who

is of the full age of twenty-one years and whose wife is a freeholder of real property in the Town and is rated as such upon the then last revised assessment roll of the said Town for not less than four hundred dollars shall be entitled to vote.

26. This Ordinance shall come into effect immediately after the passing of an Act by the Parliament of Canada confirming its provisions, subject to any variations or restrictions that may be prescribed in or by such Act.

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NO. 33 OF 1893.

## AN ORDINANCE TO INCORPORATE "THE CITY OF CALGARY."

*[Assented to 16th September, 1893.]*

Whereas the Mayor and Council of the Corporation of the Municipality of the Town of Calgary have by their petition prayed that the name of the said Corporation be changed to "The City of Calgary," and that "The Municipal Ordinance" and all amendments thereto be repealed so far as they affect the said Corporation and that all necessary Municipal Powers be granted to "The City of Calgary:"

And whereas it is expedient to grant the prayer of the said petition ;

Therefore The Lieutenant-Governor, by and with the advice and consent of the Legislative Assembly of the Territories, enacts as follows :—

1. From and after the passing of this Ordinance, the inhabitants of the City of Calgary as hereinafter described and their successors shall be, and are hereby declared to be, a body politic and corporate in fact and in law, by the name of "The City of Calgary," and the said Corporation by the same name shall have perpetual succession and shall have power to sue and be sued, implead and be impleaded, answer and be answered unto, in all Courts and in all actions, causes and suits at law or in equity whatsoever. And shall have a common seal with power to alter and modify the same at their will and pleasure. And shall be in law capable of receiving by donation, acquiring, holding and disposing of and conveying any property real or personal for the use of the said City ; of becoming parties to any contract or agreements in the management of the affairs of the City, of giving or accepting of any note, bills of exchange, bonds, obligations or other instruments or securities, for the payment of, or securing the payment of any sum of money borrowed or loaned, executing, or

guaranteeing the execution of any duty, right or thing whatsoever, and for the payment, or securing the payment of any money borrowed, or of paying loans made or debts owing by the said "The City of Calgary" or the previously existing Corporation of the Municipality of the Town of Calgary, or of taking up bonds that may become due, or of making a loan or loans or any other legitimate and sufficient purpose whatsoever. And for any of the purposes aforesaid the said Corporation may grant and issue bonds for the sum or sums of money therein to be specified, under the provisions hereafter set forth payable at such time and times after the granting and issuing thereof and in such place or places, either in this Dominion of Canada or elsewhere, or either in the currency of Canada or of the country where the same are respectively payable as by the said Corporation may be thought advantageous or expedient. Provided always that the said Corporation shall not make or give any bond, bill, note, debenture or other undertaking for the payment of a less amount than one hundred dollars. And any bond, bill, note, debenture or other undertaking issued in contravention of this Section shall be void. Provided always that nothing herein contained shall be construed to authorize the said Corporation to issue notes or bills of exchange payable to bearer or to issue notes to circulate as those of a Bank.

And provided further that the Corporation of the Municipality of the Town of Calgary shall not be deemed to be dissolved by this Ordinance, but the same shall always be deemed to be the same Corporation as that known hereunder as "The City of Calgary." And provided further that the said Corporation or "The City of Calgary" shall not be by virtue of this Ordinance relieved from any duty, obligation, liability or indebtedness heretofore or now owing, existing or due to any person, persons or corporations by reason of, or by virtue of any Act, Statute, Law or Ordinance, contract or proceeding heretofore passed, existing or in force; and provided also that the change of name of the said Corporation shall not affect or cause the abatement of any action or proceeding to which the Corporation of the Municipality of the Town of Calgary is a party, but the same shall be continued as if this Ordinance had not been passed, and any judgment, order or proceeding therein shall

have the same effect in favor of or against the Corporation by the name of "The City of Calgary," as if such had heretofore been the name of the Corporation, and the Corporation had always been a party to such action, suit or proceeding by the name of "The City of Calgary" and the said Corporation under the name of "The City of Calgary" shall be entitled to and is hereby vested with all the rights and privileges, real and personal property, and assets of all kinds and descriptions belonging to the Corporation of the Municipality of the Town of Calgary, with full power and authority to deal with same in all respects as though acquired under the name of the "City of Calgary."

2. The City of Calgary shall be bounded as follows:—

#### CITY LIMITS.

Commencing at a point where the centre line of the Road allowance between Sections Sixteen and Seventeen in Township Twenty-four, Range One, West of the Fifth Initial Meridian in the District of Alberta, in the North-West Territories, intersects the centre of the Bow River, thence running South along the centre of the said Road allowance to a point when the centre of the Road allowance between said Sections Sixteen and Seventeen being continued would intersect the continuation of a line running Westward along the centre of the Road allowance between Sections Nine and Sixteen in said Township. Thence East along the centre line of said Road allowance continued to a point where it would intersect the continuation of a line running South along the centre of the Road allowance between Sections Thirteen and Fourteen in said Township, thence North along the centre line of said Road allowance between Sections Thirteen and Fourteen to a point where said line intersects the centre of the Bow River. Thence in a Westerly direction along the centre of said Bow River to a point where the Southern boundary of Section Twenty-two in said Township intersects said centre line. Thence along said Southern boundary line and the Southern boundary line of Section Twenty one until it again intersects the centre line of Bow River. Thence along said centre line in a Westerly direction to the place of beginning. Provided however

that where said last mentioned boundary line being continued would touch any of the Islands in said Bow River, it shall be deflected to the North and shall run along and around the Northly side of said Islands following the coast line thereof, until it reaches again the centre of the Bow River, and said boundaries shall be held to include within the limits of the City of Calgary all of said Islands, any portion of which would be touched by the centre line of said Bow River.

3. The City of Calgary shall be divided into three Wards to be numbered respectively "one," "two" and "three."

#### WARD NO. ONE.

Ward number One shall consist of all that portion of the City of Calgary lying East of Centre Street and North of the centre line of the Canadian Pacific Railway right of way.

#### WARD NO. TWO.

Ward number Two shall consist of all that portion of the City of Calgary lying West of Centre street and North of the centre line of the Canadian Pacific Railway right of way.

#### WARD NO. THREE.

Ward number Three shall consist of all that portion of the City of Calgary lying South of the centre line of the Canadian Pacific Railway right of way.

#### CONSTITUTION OF COUNCIL.

4. There shall be elected from time to time in the manner hereinafter mentioned a fit and proper person who shall be and be called the Mayor of the City of Calgary and three fit and proper persons for each Ward, who shall be called and be Aldermen of the City of Calgary, and such Mayor and Aldermen for the time being shall form the Council of the said City and shall be designated as such, and shall represent for all purposes whatsoever the



Corporation of the City of Calgary, and shall hold office until their successors are appointed as provided for in this Ordinance.

(1) Any person being in Holy Orders or the Minister of any religious denomination whatever, any Judge, Sheriff, Deputy Sheriff, Clerk or Deputy Clerk of Court, any salaried officer of the Dominion, Territories or City, any License Commissioner or Inspector or any person holding a license to sell intoxicating liquor within the limits of the City, or any person having any unsettled or disputed account with or claim against the City, or any person accountable in any way for the revenues of the City, or any person presiding at the election of Mayor or Alderman or acting as Returning Officer or Deputy Returning Officer or Poll Clerk at such election while so employed or any persons who shall have been convicted of treason or felony in any Court of Law within Her Majesty's Dominion or elsewhere, or any person having by himself or through his partner or as Manager or Director of any incorporated Company any contract whatever or any interest in any contract with or for the City either directly or indirectly shall not be capable of being elected or serving as Mayor or Alderman of the said City.

(2) The persons qualified to be elected Mayor or Aldermen of the City of Calgary, are such persons as reside or have their chief place of business within the City and are natural born or naturalized British subjects males of the full age of twenty-one years and who are not disqualified under this Ordinance, and own at the time of their election Real Estate rated in their own names on the last revised assessment roll of the City, to at least the value of one thousand dollars over and above the amount of all incumbrances thereon.

5. The persons qualified to vote at any election for Mayor or Aldermen shall be all persons male or female over twenty-one years of age who are assessed upon the last revised assessment roll of the City, as owners of real property to the value of \$200.00, as tenants of real property to the value of \$400.00 or for income to the amount of \$400.00, and whose names appear on the voters list founded upon



such roll, provided however that the Council may by by-law declare that no person qualified by income only shall vote who had not, before a day to be named in such by-law, paid all taxes due by such person to the City.

(1) When more tenants than one occupy separate portions of the same house or building each shall be entitled to vote provided that the total value of the property so occupied is sufficient when divided, to give each tenant a rating of \$400.00; if otherwise none of such tenants shall be entitled to vote.

(2) A boarder or lodger shall not be deemed a tenant within the meaning of this Ordinance.

(3) A man living in a house owned by his wife shall be assessed as a tenant, whether paying rent or not, provided the property is of sufficient value to entitle him to a vote.

#### ELECTIONS.

6. A meeting of the electors of the City shall take place for the nomination of candidates for the office of Mayor of the City on the first Monday of the month of December, annually, at eleven o'clock in the forenoon in the City Hall and for the nomination of candidates for the office of Aldermen for each Ward on the same day and at the same place at the hour of twelve o'clock noon. The Clerk of the City shall be the returning officer, to preside at such meeting and in case of his absence or inability to attend, the Council shall appoint a person as returning officer in his place, and if the Clerk or person so appointed does not attend at the hour of holding such meeting, the electors present shall appoint a returning officer from among themselves.

(1) No nomination for Mayor shall be received after the hour of twelve o'clock noon of the said day, and no nominations for Aldermen shall be received after one o'clock in the afternoon of the same day.

(2) The City Clerk shall give notice of such meetings of the Electors for the nomination of candidates for Mayor and Aldermen, by advertising for at least six days in a

daily newspaper published in the City, and by at least six posters, posted up in conspicuous places in said City during the week preceding the nominations, or in such other manner as the Council may provide.

7. The nomination for each candidate shall be in writing and signed by two persons who shall be in the case of Aldermen duly qualified electors of and resident within the Ward for which the candidate is nominated, and in the case of Mayor duly qualified electors of and resident within any Ward of the City, and every such nomination shall be accompanied with a statement in writing signed by the person nominated that he consents to such nomination. If no more than the required number for any particular office be nominated, the Returning Officer shall, after the lapse of one hour from the time fixed for holding the meeting, declare such candidate or candidates duly elected for such office or offices. Should more than the required number be nominated for any particular office, the Returning Officer shall adjourn the proceedings for filling such office or offices until the Second Monday in December when a poll or polls shall be opened in each Ward or polling subdivision at such place or places respectively, as may be fixed by the By-law of the Council for the election, at nine o'clock in the forenoon and shall continue open until five o'clock in the afternoon of the same day and no longer.

8. The Council shall, from time to time, appoint the place or places for taking the vote of the electors in each Ward of the City and appoint the deputy returning officers to take the said votes in such Wards, and in the event of no such deputy returning officer being so appointed the Clerk of the City, or the person appointed under the provisions of this Ordinance to act as returning officer in his place, shall appoint deputy returning officers for holding the election in conformity with this Ordinance.

(1) In case at the time appointed for holding an election the person appointed to be deputy returning officer has died or does not attend to hold the election within an hour after the time appointed, or in case no deputy returning officer has been appointed the electors present at the place for holding the election may choose from among themselves

a deputy returning officer and in all cases the City Clerk or such person as the Council may appoint shall administer the necessary oath of office to the deputy returning officers.

(2) The Returning Officer and Deputy Returning Officers howsoever appointed, as aforesaid, shall, during the election act as Conservators of the Peace for the City and any of them or any Justice of the Peace having jurisdiction in the City may cause to be arrested and may summarily try and punish by fine or imprisonment or both, or may imprison or bind over to keep the peace or for trial, any riotous or disorderly person or any person who assaults, beats, molests or threatens any voter coming to, remaining at or going from the Elections, said fine not to exceed fifty dollars and said imprisonment not to exceed three months, provided that in default of payment imprisonment may be imposed not exceeding three months and in case where both fine and imprisonment are adjudged the imprisonment in default of fine shall be additional.

(3) Every Returning Officer, Deputy Returning Officer or Justice of the Peace may appoint and swear in any number of special constables to assist in the preservation of the peace and of order at the Election, and any person liable to serve as constable and required to be sworn in as special constable by the Returning Officer, Deputy Returning Officer or Justice of the Peace shall, if he refuses to be sworn or to serve, be liable to be summarily tried by any Justice of the Peace and be punished in the manner provided for infractions of this Ordinance.

(4) All persons present at the polling place except candidates, and all electors who may be within a distance of one hundred yards of any polling place while the election is going on shall be liable to serve as constables.

(5) All constables and persons present at an election shall assist the Returning Officer and Deputy Returning Officer in the preservation of the peace and in making any arrest under the provisions of this Ordinance when requested so to do by them or any one of them, and in case of refusal or neglect shall be liable to be summarily tried by any Justice of the Peace and be punished in the manner provided for infractions of this Ordinance.

9. The proceedings at Elections shall be as follows :—

(1) The Clerk of the City or other Returning Officer shall on or before the Saturday previous to the opening of the poll deliver to the Deputy Returning Officer for each Ward, or polling subdivision a ballot box with the necessary pencils, paper and books and other material necessary for his work in the proper recording of the votes, also a copy answering to the form of the Schedule to this Ordinance certified to be a correct copy of the voters list of the Ward and also a list of the candidates for the Office of Mayor and of the candidates for the Office of Aldermen for such Ward together with a sufficient number of ballots for Aldermen and for Mayor or either as required.

(2) The Clerk or the Returning Officer shall deliver with such voters list his affidavit that the said voters list is a true and correct list containing the names of all persons entitled to vote at said election in respect to being duly qualified by appearing on the last revised voters list of said City or Ward.

(3) Every Deputy Returning Officer shall appoint in writing a Clerk to act for him in the election, to whom he shall administer the oath of office.

(4) Every Deputy Returning Officer except in cases provided for in subsection (1) of Section 8 shall commence every election at nine o'clock in the forenoon and close the same at five o'clock in the afternoon of the same day.

(5) Every Deputy Returning Officer shall administer all oaths and affirmations necessary at an election.

(6) In case or by reason of riot or other emergency an election is not commenced on the proper day or is interrupted after being commenced and before the lawful closing thereof, the Returning Officer shall hold or resume the election on the following day at the hour of nine o'clock in the forenoon and continue the same from day to day if necessary, until the poll has been opened without interruption and with free access to voters for eight hours in all, in order that all the electors, so intending, may have had a fair opportunity to vote.



(7) At an election of Mayor or Aldermen a voter before marking his ballot paper, if so requested by a candidate or his agent or any elector lawfully present within the polling place, shall state his occupation and residence to the Deputy Returning Officer and if so requested shall take the following oath (or affirmation):

"I swear (or affirm) that I am twenty-one years of age; that I am the person whose name is on the list of electors now shown to me; that I have not before voted at this election in this Ward; that I have not voted before for a candidate for Mayor (if the voter proposes to vote for Mayor); that I have not received anything, nor have I accepted any promise made to me directly or indirectly either to induce me to vote at this election or to indemnify me for loss of time, travelling expenses, hire of vehicle, or any other service connected with this election; that I have not been guilty of any act of bribery or undue influence or act of corruption disqualifying me from voting at this election and that I am properly qualified to vote at this election, so help me God."

(8) The Council of the City shall provide a ballot box for each Ward or polling subdivision which shall be provided with a lock and key and have an opening through the lid of sufficient size to admit a single folded ballot and no more, and the said boxes shall be kept by the City Clerk for the use of the City only and shall be by him given out to the Deputy Returning Officers for use in elections, and it shall be the duty of the Deputy Returning Officer for each Ward forthwith after any election to return the same to the City Clerk.

(9) The Deputy Returning Officer for each Ward shall upon the opening of the poll, open the ballot box in the presence of the candidates (if present) and their agents or other persons then present and shall turn it upside down so as to show that it is empty, and then lock the box and the key thereof shall be kept by him, and the said box shall not be re-opened until the close of the poll when it shall be opened for the purpose of counting the ballots therein.

(10) Every elector shall vote by ballot, and shall vote in only one Ward for Mayor, but may vote for Aldermen for each Ward in which he is otherwise duly qualified.

(11) It shall be the duty of the Clerk forthwith after nominations are held for the office of Aldermen in the



various Wards of the City, to cause to be printed ballots for each separate Ward in which there shall be an election for Aldermen, which ballots shall have printed upon them in large letters at the top the number of the Ward and thereafter the name of the candidates for the office of Aldermen for that Ward, which names shall be in alphabetical order and deliver a sufficient number of ballots to each returning officer.

(12) In case an election for Mayor is required the Clerk shall cause ballots to be printed which shall have printed upon them at the top "The City of Calgary" and thereafter printed in large letters the names of the candidates for the office of Mayor which names shall be in alphabetical order and deliver a sufficient number of the same to the deputy returning officers.

(13) The ballot papers for Mayor shall be printed on colored paper and those for Aldermen on white paper, and there shall be a margin left on the right hand side of each ballot after the name sufficient for the mark of the voter and the names shall be printed closely to the left hand margin.

(14) The deputy returning officer shall provide a private room opening out of each polling place with a desk and pencil where a voter shall retire to mark his ballot.

(15) The deputy returning officer shall put his initials upon each ballot on the back, before giving same to voter and shall put upon the voters list a mark to indicate that a ballot has been given out; no voter except as hereinafter provided shall be given more than one ballot for Mayor and one for Aldermen.

(16) The voter shall at once upon receiving his ballot paper or papers retire to the room provided for the purpose and mark his ballot or ballots by putting a cross on the right hand side of the name of the candidate or candidates for whom he wishes to vote, and shall at once fold the same in such manner that the initials may be seen and in the presence of the candidates, (if present), their agents or scrutineers, return the same to the Deputy Returning

Officer, who shall, without opening the said paper or papers or permitting the same to be opened or examined, deposit the same in the ballot box and the poll clerk shall thereupon write down the name of the person, whose ballot paper has been deposited in the ballot box, in a separate list provided for that purpose, and the said clerk shall subscribe his name to said list and return the same to the Deputy Returning Officer at the close of the poll.

(17) The Deputy Returning Officer when any ballot paper or papers are required shall pronounce in an audible voice the name of the person requesting same, and if the name of such person is found upon the voters list of the Ward used at that election the said Deputy Returning Officer, if the voter is not required to take the oath or to state his residence or occupation, or if required to take the oath or make such statement duly takes or makes the same as required, shall deliver a ballot for the office of Mayor or Alderman or both as the case may be.

(18) A voter who has inadvertently dealt with the ballot paper or papers given him in such manner that either or both cannot be conveniently used may, on delivering the same to the Deputy Returning Officer, obtain another or others in place of that or those so delivered up.

(19) Immediately after the close of the poll the Deputy Returning Officer shall in the presence of the poll clerk and the candidates or their agents, and in case the candidates or their agents are not present, then in the presence of at least three electors, open the ballot box and proceed to count the number of votes given for each candidate.

In doing so he shall reject all ballot papers which have not his initials on the back, all those by which votes have been given for more candidates than are to be elected, and all those upon which there is any writing or mark by which the voter could be identified, the other ballot papers being counted and a list kept of the number of votes given to each candidate, and of the number of rejected ballot papers, and all the ballot papers indicating the votes given for the candidates for each office respectively shall be put in separate envelopes or parcels and those rejected shall also be put in separate envelopes or parcels, and all the parcels

being endorsed so as to indicate their contents shall be put back into the ballot box.

(20) The Deputy Returning Officer shall take note of any objection made by any candidate or his agent or any elector present to any ballot paper found in the ballot box and shall decide summarily any question arising out of the objection and the decision of such Returning Officer shall be final, subject only to reversal on petition questioning election or return. Each objection to a ballot paper shall be numbered and a corresponding number placed on the back of the ballot paper and initialed by the Deputy Returning Officer.

(21) The Deputy Returning Officer shall make a statement of the accepted ballot papers, of the number of votes given to each candidate, of the rejected ballot papers, of the spoiled and returned ballot papers and of those unused and returned by him, and he shall make and keep a copy of such statement and enclose in the ballot box the original statement together with the voters list and a certified statement at the foot of each list of the total number of voters who voted on such list, and such other lists and documents as may have been used in such election, the ballot box shall then be locked and sealed and shall be delivered to the City Clerk.

(22) Upon receiving the ballot box from the several Deputy Returning Officers the City Clerk shall add together the number of votes cast for the various candidates and shall at twelve o'clock noon on the second day thereafter declare the candidate for office of Mayor having the highest number of votes to be the Mayor of the said City, and shall also at the same time declare the candidates for office of Aldermen for each Ward who shall appear by such returns to have received the highest number of votes to be the Aldermen for such Ward respectively.

(23) In case two or more candidates for the office of Mayor have received an equal number of votes then the City Clerk shall vote for one thereof and declare such one elected and in case two or more candidates for Alderman have an equal number of votes the City Clerk shall vote

for one or more of such candidates so as to decide the election, the City Clerk being hereby authorized to give such votes, whether otherwise qualified or not.

(24) In case no return be made for one or more wards in consequence of non-election, owing to interruption by riot or other cause, the members of the Council duly elected being at least a majority of the whole members of the Council when full, shall elect one of the Aldermen to be presiding officer, who shall act as Mayor and who shall take the necessary declarations and possess all the powers of Mayor until a poll for each ward has been held,

(25) No person shall be allowed to inspect any rejected ballot papers in the custody of the City Clerk except under the order of a Judge of the Supreme Court of the North-West Territories having jurisdiction in the City of Calgary, such order to be granted by such Judge on being satisfied by affidavit that the inspection or production of such ballot papers is required for the purpose of instituting or maintaining a prosecution for an offence in relation to ballot papers or for the purpose of a petition questioning an election or return, and any such order shall be made subject to such conditions as to persons, time, place or mode of inspection or production as the Judge, making the same, may think expedient, and shall be obeyed by the City Clerk.

(26) Upon an affidavit presented by any elector showing reasonable grounds for dissatisfaction with the return made by the City Clerk, the Judge of the Supreme Court having jurisdiction in the City of Calgary shall have power to and shall direct a re-count of the ballots cast for Mayor and Aldermen, and shall direct the City Clerk to produce all the ballot papers before him and he shall re-count the same, and shall decide as to the proper number of ballots cast for each candidate, and declare the result of such re-count, and his declaration as to such re-count shall be final, subject to the election being contested as hereafter provided: such recount must be asked for within seven days after the declaration of the City Clerk: a fee of twenty dollars shall be paid by the applicant to the Judge upon presenting the affidavit asking for the recount.



(27) The Deputy Returning Officer on application of any voter who is unable to read or incapacitated by blindness or other physical cause from voting in the manner prescribed by this Ordinance shall assist such voter by marking his ballot paper in the manner directed by such voter, in the presence of the candidates or their agents and of no other person, and by placing such ballot paper in the ballot box, and the Deputy Returning Officer shall cause a list to be kept of the names of voters whose ballot papers have been so marked in pursuance of this Section with the reason why each was so done, and whenever the Deputy Returning Officer shall not understand the language spoken by any elector claiming to vote he shall swear an interpreter who shall be the means of communication between him and such elector with reference to all matters required to enable such elector to vote.

(28) Every Returning Officer, Deputy Returning Officer or poll clerk, who is guilty of any wilful malfeasance or any wilful act or omission in contravention of the election clauses of this Ordinance, shall forfeit to any person aggrieved by such malfeasance, act or omission the penal sum of ten dollars in addition to the amount of any actual damages thereby occasioned to such person.

(29) In addition to the Deputy Returning Officer and the poll clerk the candidates or their agents (not exceeding two in number for each candidate for Mayor, and one for each Alderman) and no others shall be permitted to remain in the room where the votes are given during the time the poll remains open.

(30) Any person producing to the Returning Officer or Deputy Returning Officer at any time a written authority from a candidate to represent him at the election or at any proceedings of the election shall be deemed an agent of such candidate, within the meaning of this Ordinance.

(31) Any person herein authorized to remain at any polling place shall on being admitted thereto take and file with the Deputy Returning Officer the oath provided in Schedule hereto.

10. The Mayor and Aldermen elected shall make and subscribe before and file with the City Clerk the necessary declaration of office and qualification on or before the day appointed for the first meeting of the Council and no other business shall be proceeded with at the said meeting, until the said declarations have been administered to all the members who present themselves to take the same provided that in case any member of the Council is absent from the City at the time of his election he shall be permitted to make his declarations within one month from the date of the said first meeting.

11. In case a member of the council be convicted of felony or infamous crime or be declared a bankrupt or applies for relief as an insolvent debtor, or assigns his property for the benefit of creditors or removes without the limits of the City, or being without ceases to have his chief place of business within the City, or absents himself from five consecutive regular meetings of the Council, or of any committee of which he is a member, without being previously excused by resolution of the Council entered on its minutes, his seat in the Council shall thereupon become vacant.

12. In any case provided for in the next preceding Section of this Ordinance or in case a person elected to the Council shall not make and file the necessary declarations as previously provided or in case a vacancy occur in the Council caused by death, judicial decision or resignation or otherwise, the head of the council for the time being or in case of his absence or of his office being vacant, the City Clerk, or in the case of like absence a vacancy in office of Clerk, any one of the members of the Council forthwith by warrant under the signature of such head, clerk or member, and under the corporate seal, shall appoint the necessary officials and require them to hold a new election to fill the place of the person neglecting or refusing as aforesaid, or to fill the vacancy, provided that unless prevented by good and substantial reasons the person so appointing officials shall appoint those who had charge of the last election for the City, and the proceedings for such election shall be the same with the necessary changes of dates as herein provided, and any Mayor or Alderman so elected to replace another shall remain in the office for the remainder

of the term for which his predecessor was elected and no longer.

#### CONTESTED ELECTIONS.

13. If the election of the Mayor or one or more Aldermen be contested, such contestation shall be decided in Chambers by any Judge of the Supreme Court of the North-West Territories having jurisdiction in the City of Calgary.

(1) Every such election may be contested by any unsuccessful candidate or by at least ten electors qualified to vote at such election.

(2) The said contestation shall be brought before the Judge in Chambers, by a petition signed by the petitioner or petitioners setting forth in a clear manner the grounds of such contestation.

(3) A true copy of such petition with a notice stating the day upon which the petition will be presented to the Judge shall be first duly served upon the person or persons whose election is contested, at least eight days before the day on which the petition is presented to the Judge and an affidavit of the service shall be attached to the original petition and notice, but no such petition shall be received after one month from the time of the declaration by the Returning Officer in regard to the election thereby contested, nor shall any such petition be received unless security for costs, to the amount of two hundred dollars, to be approved by the said Judge, be given by the petitioner or petitioners; provided however that if the person or persons whose election is contested are absent from the City or after due diligence cannot be found therein, of which fact the Judge shall be satisfied by affidavit, he shall thereupon make order that service of said petition and notice may be made by mailing and registering copies thereof addressed to such person or persons at Calgary and posting copies thereof in the offices of the City Clerk and the Clerk of the Court, such mailing and posting to be done at least eight days previous to the presentation of the petition.

(4) If the Judge on the presentation of the petition is of opinion that the grounds set forth therein are sufficient in law to void the election he shall order proof to be adduced and the parties interested to be heard on the nearest day which he deems expedient and shall proceed in a summary manner to hear and try the said contestation, the evidence shall be given in the same manner as in an ordinary civil cause: and if the trial of such contestation is not concluded at the close of the sittings during which it began the Judge may continue the same and shall adjourn from day to day until he has pronounced his final judgment upon the merits of the same, and every judgment so pronounced and all proceedings had in any such case shall have the same effect as if the same had been pronounced or heard in open Court.

(5) The Judge may in such contestations confirm the election or declare the same to be null and void, or declare another person to have been duly elected, and may award costs to or against any party which costs shall be taxed and allowed by the Clerk of the Supreme Court and be recoverable by execution issued out of the said Court by order of said Judge.

(6) The proceedings at said trial and in connection therewith and in respect to the attendance of witnesses thereat shall except as herein otherwise provided be the same as those in force for the time being in respect to ordinary civil trials in said Court.

(7) If any defect or irregularity in the formalities prescribed for the election are set forth in such petition as a ground for contestation the Judge shall admit or reject the objections according as such defect or irregularity may or may not, in his opinion, have materially affected the election.

(8) In case the election complained of be adjudged invalid the Judge shall forthwith by writ cause the person found not to have been duly elected to be removed, and in case the Judge determines that any other person was duly elected he shall forthwith by writ cause such other person to be admitted, and in case the Judge determines that no other person was duly elected, instead of the person removed, he shall, by writ addressed to the City Clerk, cause a



new election to be had and the same formalities shall be observed at such election as are required to be observed at a general election under this Ordinance.

(9) In case the election of all or any of the members of the Council be adjudged invalid, the writ or writs for their removal and for the election of new members in their place or for the admission of others adjudged legally elected shall be directed to the City Clerk, who shall have and exercise all the powers for causing an election to be held which the Council or any member thereof has in order to fill vacancies therein.

(10) In case the office of City Clerk is vacant at any time when it shall be necessary for the Judge to issue a writ as hereinbefore provided, the said writ shall be directed to the Sheriff of said Court having jurisdiction in the City of Calgary and said Sheriff shall have all the powers of the City Clerk for the purpose of carrying out the provisions of said writ or writs and his necessary costs shall be taxed by the Judge and paid by the City on demand.

#### CORRUPT PRACTICES.

14. The following persons shall be deemed guilty of corrupt practices and shall be punished accordingly :—

(1) Every person who directly or indirectly by himself or by any other person on his behalf gives, lends or agrees to give or lend, or offers or promises any money or valuable consideration or gives or procures or agrees to give or procure, or offers or promises any office, place or employment to or for any voter, or to or for any person in order to induce any voter to vote or refrain from voting at any election of Mayor or Alderman, or upon any by-law submitted to the electors of said City, or who corruptly does any such act as aforesaid on account of such voter having voted or refrained from voting at any such election or upon any such by-law.

(2) Every person who directly or indirectly by himself or by any other person on his behalf makes any gift, loan offer, promise or agreement as aforesaid to or for any

person in order to induce such person to procure or prevent or endeavor to procure or prevent the return of any person to serve in the Council of the City, or to procure or prevent or endeavor to procure or prevent the passing of any such by-law as aforesaid, or the vote of any elector at such election or on such by-law.

(3) Every person who by reason of any such gift, loan, offer, promise, procurement or agreement, procures or prevents, or engages or promises or endeavors to procure or prevent the return of any person to said Council, or the passing of any such by-law or the vote of any elector at any such election or any such by-law.

(4) Every person who advances or pays or causes to be paid any money to or to the use of any other person with the intention or knowledge that such money or any part thereof shall be expended in bribery at any such election or at any voting upon a by-law as aforesaid, or who knowingly pays or causes to be paid any money to any person in discharge or repayment of any money wholly or in part expended in bribery in connection with any such election or voting upon by-law.

(5) Every voter who before or during any such election or the voting upon any such by-law directly or indirectly by himself, or any other person on his behalf, receives, agrees or contracts for any money, gift, loan or valuable consideration, place or employment for himself or any other person for voting or agreeing to vote or refraining or agreeing to refrain from voting at any such election or upon any such by-law.

(6) Every person who after any such election or the voting upon any such by-law directly or indirectly by himself or any other person on his behalf receives any money or valuable consideration on account of himself or any other person having voted or refrained from voting at any such election or upon any such by-law.

(7) Every person who directly or indirectly by himself or by any other person on his behalf makes use of any force, violence or restraint, or inflicts or threatens the infliction

tion by himself or by or through any other person of any injury, damage or loss, or in any manner practises intimidation upon or against any person in order to induce or compel such person to vote or refrain from voting or on account of such person having voted or refrained from voting at an election or upon a by-law or who in any way prevents or otherwise interferes with the free exercise of the franchise of any voter.

(8) Every person who corruptly by himself, or by or with any person or persons, or by any other means or ways on his behalf, at any time either during any election or the voting upon any by-law directly or indirectly gives or provides or causes to be given or provided or is accessory to the giving or providing, or pays wholly or in part any expenses incurred for any meat, drink, refreshment or provisions to or for any person in order to be elected or for being elected or procuring the election of any other person or the passing of any such by-law or for the purpose of influencing any person to give or refrain from giving his vote at any such election or upon any such by-law.

(9) Every person during the voting at any election or upon any by-law who knowingly personates and falsely assumes to vote in the name of another person whose name appears on the voters list whether such other person be living or dead or if the name of such other person be the name of a fictitious person.

(10) Every person who having already voted at an election or upon a by-law presents himself again to vote at the same election or upon the same by-law.

(11) Every person who aids, incites, causes or facilitates the commission by any person whomsoever of any of the foregoing acts in this Section mentioned.

(12) Every person, who by himself or by any other person on his behalf, hires or pays for the use of any horse or team or other means of conveying voters to or from the polls, or who makes use of any horse, team or other such means which has or have been hired for such purpose on any day on which an election is held.

15. The actual personal expenses of any candidate, his expenses for actual professional services performed, and *bona fide* payments for the fair cost of printing and advertising and the fair rent of a room or hall for meetings, shall be held to be expenses lawfully incurred and payment thereof shall not be a contravention of this Ordinance.

16. Upon the trial of any petition against the election of a Mayor or Alderman or against any by-law voted upon by the ratepayers under this Ordinance, there shall be struck off from the number of votes given for any candidate, whose return is in question, or for or against such by-law, one vote for each person who shall have been proved to have voted after having been guilty of a corrupt practice in the interest of or on the instigation of such candidate or one of his agents or any other person acting in his name or in the interests of such candidates or acting for or against such by-law, as the case may be.

17. Where in an application in the nature of a *quo warranto*, or upon any petition, or upon any application to quash any by-law, any question is raised as to whether the candidate or any voter or other person has been guilty of any corrupt practice, affidavit testimony shall not be used to prove the offence, but it shall be proved by *viva voce* evidence taken before the Judge trying such case and the said Judge shall forthwith, after hearing the evidence for and against, decide the question and impose the penalties hereinafter provided.

18. Any candidate elected at any Municipal election, whose election is contested, being found guilty of corrupt practice as aforesaid shall forfeit his seat and shall be ineligible as a candidate for any Municipal election or to hold any civic office for two years thereafter and shall incur a penalty of not less than fifty or more than two hundred dollars.

19. Any other person who is adjudged guilty of a corrupt practice shall incur a penalty of not less than ten or more than one hundred dollars, and shall be disqualified from voting at any Municipal election for two years thereafter.



20. The penalties imposed by the last two clauses shall be payable to the City Clerk and form part of the finances of the City, and any person against whom judgment is rendered shall be ineligible as candidate or voter at any Municipal election or voting on any by-law until the amount thereof be paid to the City Clerk.

21. It shall be the duty of the Judge who finds any person guilty of a corrupt practice within the meaning of this Ordinance to forthwith report the same to the City Clerk with the amount of the penalty imposed, and the City Clerk shall duly enter in a book to be kept for that purpose the names of all persons who shall have been adjudged guilty of such corrupt practice, of which he has been notified by the Judge.

22. In addition to other penalties provided herein any person guilty of corrupt practice shall be liable to be summarily tried before the Police Magistrate or any two Justices of the Peace, and to be punished by fine not exceeding one hundred dollars, or imprisonment not exceeding six months, or to both fine and imprisonment.

#### ASSESSMENT.

23. The Council shall on or before the first day of November in each year appoint by by-law an Assessor whose duty shall be to make an assessment of the City for the succeeding year; the salary to be paid such Assessor shall be fixed by the said by-law and he shall provide and pay for any further assistance he may require; Provided that if in any year the Council shall fail to appoint an Assessor on or before the said date, the Assessor of the previous year shall be held to continue in office for another year at the same salary.

24. The Council shall on or before the said first day of November in each year furnish the Assessor with a printed or ruled form of an Assessment Roll in uniformity with the Schedules to this Ordinance, in which, after enquiring, he shall set down all the information therein required to be contained, and shall also furnish him with a sufficient number of blank forms, necessary and requisite to proceed with and conclude the assessment.

25. It shall be the duty of the Assessor to make a valuation annually of all the rateable property in the City and to report the same, with such particulars as the Council may require.

26. It shall be the duty of the Assessor to make the assessment throughout the City as uniform as possible and to make out an assessment roll in such form as the Council may direct, and when such assessment roll is completed it shall be the duty of the Assessor to deliver or cause to be delivered at least fifteen days before the first sitting of the Court of Revision to each person so assessed who resides within the City either personally or by leaving the same at their residence or place of business, or posting the same addressed to such person at Calgary, a notice containing a copy of so much of the assessment roll as refers to the property of such person, and to mail to the address of any non-resident, who is rated upon such roll a like notice, providing such person has by writing requested to be assessed, and in all other cases no notice shall be required.

27. It shall be the duty of the Assessor to begin to make the assessment not later than the first day of November in each year, for the following year, and as soon as the said notices have been given, and on or before the first day of February in each year to return to the City Clerk such assessment roll, and he shall attach thereto a certificate, signed by him and verified by oath before the said City Clerk in the form following:—

“ I do solemnly swear to the best of my knowledge and ability I have set down in the above Assessment Roll all the real property liable to taxation in the City of Calgary, and the true and actual value thereof in each case according to the best of my information and judgment, and also that the said Assessment Roll contains a true statement of the amount of taxable personal property and income of every person named on the said roll and that I have estimated the same according to the best of my ability, information and belief, and that I have entered thereon the names of all the resident recipients of taxable income, owners of taxable personal property, tenants and freeholders and all other persons entitled to be assessed who have required their names to be entered thereon with the true amount of taxable property occupied or owned or income received by each and that I have not entered the name of any person whom I do not believe to be a tenant or freeholder, or the *bona fide* holder of personal property, or recipient of income, and that the date of the delivering or transmitting the notice required herein is in every case truly and correctly stated in the

said roll and that I have not entered the name of any person in order to give such person a vote, or at too high a rate in order to give such person a vote, or at too low a rate in order to deprive such person of a vote, and that the amount for which each person is assessed upon the said roll truly and correctly appears in the said notice delivered or transmitted as aforesaid, and that I have truly set down on the said roll all further particulars required by the Council to the best of my knowledge and ability."

28. It shall be the duty of the City Clerk on return of the assessment roll to him to give notice in each daily paper published in the City that the said roll is in his office open for inspection, which said notice shall also state the time and place of the first meeting of the Court of Revision and shall be first published at least fifteen days previous thereto and be inserted in at least five editions of the said papers, and after giving said notice the Clerk shall add to the roll a certificate that the proper notices have been given in accordance with this Section, and such certificate shall be signed by the Clerk and shall be *prima facie* evidence of the truth of the statements therein contained without proof of signature.

29. It shall be the duty of every person assessable in the City to give all necessary information to the Assessor, and if required by the Assessor any such person shall deliver to him a statement in writing signed by such person containing all the particulars respecting the property assessable against such person which are required in the assessment roll, and any such person failing to deliver such statement within three days after being requested so to do, by the Assessor, shall be liable to the penalty provided for the infraction of this Ordinance.

30. No Assessor shall be bound by any statement or request for assessment if he has good grounds to doubt its accuracy nor shall he be excused thereby from making inquiries to ascertain its correctness, and he shall assess the person furnishing such statement or request for such amount as he shall believe to be just and may omit his name or any property he claims to own or occupy if the assessor has reasons to believe that he is not entitled to be placed on the roll, or to be assessed for such property.

31. "Land," "Real Property," and "Real Estate" respectively shall include all buildings and other things erected

upon or affixed to the land, and all machinery and other things so fixed to any building as to form part of the realty, and all mines, minerals and quarries in and upon the same.

32. "Personal property" and "personal estate" shall include all goods, chattels, shares in Incorporated Companies, interest on mortgages, dividends from bank stock, money and notes at their actual value, and all other property except land and real estate and real property as above defined.

33. "Property" shall include everything as set forth in the two preceding Sections.

34. "Income" shall mean the amount of money received during the year by any person within the City, either as the reward for labor or from any other cause except money derived from property, otherwise assessable.

35. Unoccupied land shall be entered in the assessment roll as non-resident, whether the owner resides in the City or not, unless he gives notice in writing setting forth his full name, place of residence and post office address to the City Clerk, on or before the thirtieth day of October in each year, that he owns such land, describing it, and requires his name to be entered in the assessment roll therefor, and the City Clerk shall on or before the first day of November in each year make up and deliver to the Assessor a list of persons requiring their names to be entered on the roll and the lands claimed to be owned by them, and in default of such particulars being furnished, the Assessor shall not be bound to furnish the owner of any unoccupied lands with any notice of assessment.

36. When any land is occupied by any person other than the owner it shall be sufficient for the Assessor to furnish the occupant or one of the occupants with the notices required by this Ordinance, unless the owner shall have a legal domicile within the City.

37. All municipal taxes or rates shall, where no other expressed provision is made, be levied equally upon the whole rateable property and income according to the assessed value thereof, and not on any one or more kinds of property, in particular, or in different proportions.



## EXEMPTIONS.

38. All land, personal property and income in the City shall be liable to taxation, subject to the following exemptions, that is to say:—

(1) All property held by Her Majesty or specially exempted by the Parliament of Canada, or for the public use of the Government of the Territories.

(2) All property held by or in Trust for the use of any tribe of Indians or the property of the Indian Department.

(3) When any property mentioned in the preceding clauses is occupied by any person otherwise than in an official capacity, the occupant shall be assessed in respect thereof, but the property shall not be liable.

(4) The lands not exceeding one half acre, and the buildings thereon of all public schools, universities and collegiate institutes or incorporate seminaries being public property, so long as such property is actually used for educational purposes.

(5) All property belonging to the City.

(6) Jails and court houses and the necessary land attached thereto.

(7) Churches and the land in connection therewith not exceeding one half acre, orphanages, poor houses, houses of industry, asylums, hospitals being public institutions and the personal property connected therewith, and land not exceeding one half acre.

(8) Household effects of every kind (except in licensed hotels and restaurants) books and wearing apparel in use.

(9) The first five hundred dollars income.

(10) One third of the value of all personal property belonging to any person assessed.

## MISCELLANEOUS PROVISIONS.

39. No assessment shall be invalid by reason of any defect in form or by reason of omission of assessable property therefrom or by the non-return of the roll at the time specified.

(1) No assessment shall be changed by the Court of Revision or Judge which appears to be in practical uniformity in regard to value throughout the City.

(2) It shall be the duty of the Assessor in addition to other duties imposed on him to collect such other information as is required by any act of the Legislature of the Territories, or by an Order in Council passed thereunder.

(3) The real estate of all railroad companies shall be considered as lands of residents.

(4) All property, the names of the owners of which shall not have been ascertained by the Assessor, shall be entered in the assessment roll as non-resident property.

(5) Lands occupied by the owner shall be assessed in his or her name.

(6) Lands occupied otherwise than by owner shall be assessed to both occupant and owner, if the owner is a resident of the City or has requested to be assessed in the manner provided for unoccupied lands, if not they shall be assessed to the occupant alone.

(7) Every male inhabitant of the City, of the age of twenty-one years and upwards, and not being in Her Majesty's Naval or Military service, on full pay or actual service, or a member of any volunteer fire brigade who has not been assessed upon the assessment roll, or whose taxes do not amount to two dollars, shall be taxed two dollars yearly, which will be collected in the same manner as other taxes or in such manner as the Council by by-law may provide, and shall be known as poll tax, and a separate roll containing names of persons liable shall be made by the Assessor.

## COURT OF REVISION.

40. The assessment roll of the City shall be annually revised and corrected by the Council thereof at a Court of Revision, and any person or persons, if he or they complain of their assessment or non-assessment or of the assessment or non-assessment of any other person shall, at least five days before the first meeting of the Court of Revision, notify the City Clerk of his or their ground of complaint and the Council shall at the time and place mentioned in the notice, referred to in Section 28 of this Ordinance, meet as a Court of Revision, of which five members shall form a quorum, for hearing such complaints, and after hearing the parties so complaining, if any attend, and such evidence for or against the assessment, as may be adduced, the said Court of Revision may alter, raise or lower the assessment and amend the roll accordingly, and such decision shall be considered as final, except the same be further amended on appeal to the Judge of the Supreme Court, having jurisdiction in the City of Calgary.

(1) At the Court of Revision the complainant, assessor and witnesses shall give evidence under oath; any member of the said Court may administer the oath to any party giving evidence thereat, and the City Clerk shall be the Clerk of the said Court unless otherwise ordered by the Court.

(2) The roll as finally passed by the Court of Revision and certified by the Clerk as passed shall, except in so far as the same may be further amended, on appeal to the Judge of the Supreme Court having jurisdiction in the City of Calgary, be valid and binding on all parties concerned notwithstanding any error or defect committed in or with regard to such roll or any defect, error or mis-statement in the notices heretofore referred to in this Ordinance, or the omission to deliver or transmit such notices or any of them.

(3) Immediately after the final sitting of the Court of Revision, the City Clerk shall notify each party who has appealed to the said Court, by letter or post card addressed to such party at Calgary, of the decision in his case.

## APPEAL FROM THE COURT OF REVISION.

41. If any person is dissatisfied with the decision of the Court of Revision, he may appeal therefrom to the Judge of the Supreme Court having jurisdiction in the City of Calgary, as follows:—

(1) Within one week after the posting of the notice referred to, he shall personally serve the City Clerk with two written copies of a notice of his intention to appeal to the said Judge, giving his grounds therefor.

(2) Immediately after the expiration of the said week the Clerk shall deliver to the said Judge one copy of each notice which he shall have received.

(3) The Judge shall thereupon fix a day for the trial of the said appeals and the Clerk shall post a notice thereof in his office, and in the office of the Clerk of the Court.

(4) The Judge shall hear the appeal and any evidence adduced upon oath at the time and place appointed in a summary manner and may adjourn the hearing from time to time and defer judgment therein at pleasure, provided that in any case when judgment is not rendered within one month from the date on which the said notices are handed to the Judge, the assessment shall be held to have been confirmed by him, as passed by the Court of Revision.

(5) The City Clerk shall in any appeal from a decision of the Court of Revision produce before the Judge at the time and place appointed for hearing the appeal the assessment roll and all documents and papers in his possession in any way affecting the matter.

(6) The Council or any person dissatisfied with the decision of the Judge shall have the right to appeal therefrom to the Supreme Court in banc, by filing notice of appeal with the Clerk of the Court at Calgary within fifteen days after such decision, and depositing with the said Clerk the sum of three hundred dollars to cover costs of such appeal.



## LEVYING RATES.

42. The Council of the City shall each and every year immediately after the final revision of the assessment roll by the Court of Revision, pass a by-law for levying a rate or rates upon all real or personal property and income on the said roll, to provide for the necessary expenses of the City, as well as the payment of all such sum or sums of money as the said City shall have undertaken or be liable for during the current year, in respect of any debenture or other debt or obligation, and including such sums as may be required for School purposes within the City and the School Trustees of the said City shall, in each and every year, on or before the first day of February, provide the City Clerk with an estimate of the sum required by them for School purposes, provided always that the rate to be levied in any year in addition to what is required for the payment of interest on outstanding debentures, and the amount required for sinking fund therefor, or for payment of principal and for School purposes, shall not exceed the sum of one cent on the dollar.

## COLLECTION OF TAXES.

43. Forthwith after the passage of the said By-Law the City Clerk shall make out a tax roll or rolls in which he shall enter all the taxable land, personal property and income in the said City which shall contain columns for all the information required by this Ordinance or otherwise by law to be entered therein; the said roll shall be in two parts and in the first part, which shall be called the resident roll, shall be set down the names of every person assessed and the nature and particulars of his assessment as ascertained after such final revision and he shall calculate and, opposite the assessed value therein described of each person respectively, he shall set down in separate columns headed with the name or object of each rate or otherwise as the case may require the amount for which the person is chargeable for each purpose respectively and the total amount required to be collected from or paid by such person on the assessment of the year for all purposes for which a levy is required to be made in the City and every rate, the proceeds of which are required by law or by the by-law imposing it to be kept separate, shall be so entered

and calculated separately, and in the second part, which shall be called the non-residents roll, he shall enter all the lands in the said City of which its owners' names shall not be found on the assessor's roll with the value thereof and other particulars as hereinbefore provided for resident roll.

44. The said tax roll shall also have a column in which shall be entered any arrears of taxes due on or in respect of any land or other property in the City and said arrears shall be set down opposite the name of the person or in the non-resident roll opposite the land liable therefor, and these arrears of taxes shall be such as shall have been furnished to the City Clerk by the Collector or such as the City Clerk shall himself be otherwise aware of from the books or other accounts in his office or in his possession as such Clerk as being legally due on or in respect of any land or property in said roll.

45. When the said roll is completed both parts shall be given to and remain in the hands of the collector for collection.

46. On receiving the said roll the collector shall forthwith transmit by mail, registered, a notice containing a statement and demand of taxes to each person whose name appears on the resident roll, and such statement and demand shall mention the time when such taxes are required to be paid and what discount, if any, will be allowed for prompt payment of the same and the said collector shall enter the date of mailing such notice in the said tax roll opposite the name of the person taxed, and such entry shall be *prima facie* evidence of the mailing of same.

47. He shall also give notice by bills posted in public and conspicuous places in the City, and by advertisement in at least one newspaper published therein, or in such other manner as the Council may decide in respect to the time and place of payment of such taxes and such other general matters as are contained in the notice of demand aforesaid, and in case any person, whose name appears on the said roll and to whom a notice shall have been mailed as aforesaid, neglects to pay his taxes for thirty days after such mailing, the collector may by himself or his agent levy the same with costs by distress and sale of goods and

chattels of the said person wheresoever the same are found within the City, whether in possession of said person or some one else for him, and any goods and chattels found upon the lands assessed to any person shall be held to be the goods and chattels of that person, and shall be liable for taxes on said land as well as for the taxes on any personal property situated on said land at time of assessment.

48. In case the taxes on any land mentioned in non-resident roll are not paid on the day appointed in the said published notice and any goods and chattels are found on the said land the collector may levy upon the same in the manner hereinbefore provided.

49. Notice shall be given by posters, posted up in at least three conspicuous places in the City or by advertisement in at least three issues of one or more newspapers published therein when and where the sale of goods and chattels distrained will take place giving at least one weeks notice of the sale and of the name of the person assessed or in case of non-resident land the description of the land assessed and at the time named in the notice the collector or his agent shall sell at public auction the goods and chattels distrained or so much thereof as may be necessary; such collector or agents shall not require license as auctioneer for such sale, nor shall such goods be liable to any auction duty now or hereafter imposed.

50. In addition to the necessary disbursements in connection with the said sale the collector shall be entitled to such fees for seizure and sale as the Council may from time to time by by-law determine, which shall be the first charge on the proceeds of said sale.

51. If the goods and chattels seized are sold for more than the whole amount of taxes levied for, and the costs attending the seizure and sale, the surplus on demand shall be paid to the person in whose possession such goods and chattels were at the time of seizure, and in case such surplus is not demanded it shall be paid by the collector to the Treasurer, to be held for and paid over, on demand to the person in whose possession the said goods were as aforesaid, otherwise to the person entitled as owner of said goods and chattels to said surplus, provided that it is so

demanded within six years, after which time it shall not be recoverable from the City.

(1) The personal property of residents shall not be liable to distress for taxes on vacant property if the taxes have been paid on the said personal property, if liable therefor, and on the real estate on which said personal property may be found.

52. All the assessments imposed under this Ordinance shall be due and payable not only by the owner of the property on which they are imposed but also by the possessor or occupant of the said property, and by the tenant or lessee of such property.

53. The Collector shall make a return of said roll to the City Clerk on or before the last day of November in each year, and if any of the taxes mentioned in the tax roll remain unpaid and the Collector is not able to collect the same, he shall show on the said roll on return opposite to each assessment, or by a statement appended to the said roll, the reason why the same could not be collected by adding the words "non-resident," or "not sufficient property to distrain," as the case may be.

54. The taxes accrued on any land shall be a special lien on such land, having preference to any claim, lien, privilege or encumbrance of any body except the Crown, and shall not require registration to preserve it.

55. The Council may by by-law make the taxes payable by instalments at such times as they may think proper and fix and allow a discount for prompt payment of such instalments.

56. The Collector on demand during the time in which he shall have the tax roll in his possession shall furnish to the owner of any land charged with arrears of taxes a written statement of the arrears at that date and he may charge a fee of twenty-five cents for furnishing such statement, if it does not contain more than five lots or parcels, and a further fee of ten cents for every additional ten lots or parcels, but he shall not make any charge for search or statement to any person who forthwith pays the taxes, and



he shall charge no more than two dollars for any statement. The tax collector shall be the collector of all assessments imposed within the City.

57. All taxes or rates levied within the City shall bear interest at the rate of six per cent. per annum from the day on which the same are respectively made payable by by-law, and in addition thereto, and said interest shall be included in the term taxes or rates and be collectable in the same manner.

#### SALE OF LAND FOR TAXES.

58. Whenever any portion of the taxes on any land has been due two years, whether levied before or after the passing of this Ordinance, the Collector shall submit to the Mayor a list in duplicate of all the lands in his books on which taxes are so due, with the amount of arrears against each lot set opposite to the same, and the Mayor shall authenticate each such list by affixing thereto the seal of the corporation and his signature, and one of such lists shall be deposited with the City Clerk, and the other shall be given to the Treasurer with a warrant thereto annexed under the hand of the Mayor and the seal of the City, commanding him to levy upon the land for the arrears due thereon with costs, and the said Treasurer is hereby authorized to sell the same.

(1) For the purpose of this Section all taxes shall be considered to be due on the first day of January of the year in which the same are levied.

59. The said Treasurer shall not sell any lands which have not been included in the list furnished him as aforesaid.

60. The Treasurer shall prepare a copy of the list of lands to be sold as authorized by this Ordinance and shall include therein in a separate column a statement of the proportion of costs chargeable on each lot for advertising and the sum of twenty-five cents for each parcel advertised for sale and shall cause the said list to be published at least once a week for four consecutive weeks immediately preceding the day

of sale therein named in at least one newspaper published in the City.

61. When the title to any land sold for arrears of taxes is vested in the Crown the deed therefor in whatever form given shall be held to convey only such interest as the Crown may have given or parted with, or may be willing to recognize or admit that any person possesses under any color or right whatever and the City in case of any sale for taxes being declared invalid shall be liable only for the purchase money actually paid therefor to the Treasurer and legal interest thereon as for damages or otherwise.

62. The advertisement shall contain a notification that unless the arrears of taxes and costs are sooner paid, the Treasurer will proceed to sell the lands for taxes on the day and at the place mentioned in the advertisement.

63. Every such notice shall specify the place, day and hour at which the sale shall commence, and each lot or parcel of land shall be designated therein by a reasonable description for registration purposes.

64. All the lots liable for sale in the City shall be included in the same statement and notice, but any neglect or omission to include any lands liable for sale in said list shall not be held to invalidate the sale or to prevent the sale of such omitted land on any future occasion for all arrears of taxes that may be due thereon.

65. The day of sale shall not be more than forty days after the first publication of the list and the sale shall take place at such place in the City as the Council shall from time to time by resolution appoint, and in the absence of such appointment at such place in the City as the Treasurer in his said notice shall name.

66. The Treasurer shall in each case add to the arrears of taxes his charges and the cost of publication.

67. If at any time appointed for the sale of lands no bidders appear, the Treasurer may adjourn the sale from

time to time, provided always that no such adjournment shall be for a period exceeding fifteen days.

68. At the place, day and hour appointed for the sale of lands (if the taxes thereon, including costs and charges, have not previously been paid) the Treasurer shall offer the lands for sale by public auction, and in so doing shall make and declare the amounts stated in the list as the taxes due with his charges and costs as the upset price on each respective lot or parcel as offered for sale and shall there sell the same to the highest bidder or to such person as may be willing to take it at the upset price, there being no higher bidder but subject to redemption as hereinafter provided for.

69. If no bidder appears for any land for the full amount of arrears of taxes, costs and charges, the Treasurer shall there and then sell the same to the City of Calgary at the upset price.

70. If the land sells for a greater sum than the taxes due together with all charges thereon, the purchaser shall only be required to pay at the time of sale the amount of said taxes and charges, and the balance of the purchase money shall be payable within one calender month after the time of redemption of said land shall have expired without the same having been redeemed within the time limited, and if the said balance of purchase money shall not be so paid by the purchaser, his heirs or assigns, within the time above prescribed he and they shall forfeit all claim to the said land and to any transfer or conveyance thereof as well as the amount paid at the time of sale, and such land shall thereupon cease to be affected by said sale.

71. If the purchaser of any parcel of land fails immediately to pay the Treasurer on account of said purchase the amount claimed for arrears of taxes and charges, the Treasurer shall forthwith again put up the property for sale.

72. The Treasurer after selling any land for taxes shall give to the purchaser a certificate describing the land as advertised, stating the amount of taxes and costs paid and

the total amount of purchase money, and further saying that a transfer of the same to the purchaser or his assigns will be executed by the Treasurer on his or their demand within one month after the expiration of one year from the date of the certificate, if the land be not previously redeemed, and upon payment of the balance of the purchase money if any remains unpaid, and upon payment of two dollars for said transfer.

73. The purchaser shall on receipt of the Treasurer's certificate of sale become the owner of the land so far as to have all necessary rights and powers for protecting the same from spoliation or waste until the expiration of the term during which the lands may be redeemed.

74. A statement of the land so sold for arrears of taxes with the names of the respective purchasers, the date of sale, the time of redemption and the amount required to redeem, shall within thirty days from the date of sale or adjourned sale, be made out and signed by the Treasurer, in duplicate, and one copy shall be kept by the Treasurer and the other deposited with the City Clerk, and either of the said lists may be inspected at any time during office hours, for a fee of ten cents for each lot of which inspection is desired.

75. The owner of any land which may hereafter be sold for taxes, or his heirs, executors, administrators or assigns, or any other person on his or their behalf, but in his name only, may at any time within one year from the date of sale, exclusive of that date, redeem the real estate sold, by paying to the Treasurer before the hour of three o'clock in the afternoon of the said last day for redemption for the use and benefit of the purchaser or his legal representatives, the sum paid by him together with ten per cent. thereon and any further sum which shall have been levied against said land and paid by the purchaser before date of redemption and the Treasurer shall give the party paying such redemption money a receipt stating the sum paid and the object thereof, and such receipt shall be evidence of the redemption.

76. For the purpose of this Ordinance the day of sale shall be the day on which the sale was advertised to take



place, without reference to any adjournment or adjournments, and all certificates shall be dated as of that day.

77. From the time of payment to the Treasurer of the full amount of redemption money required by this Ordinance, all rights and interests of the purchaser shall cease.

78. Whenever such redemption is effected by a person not specially authorized, the Treasurer shall mention in the receipt given by him for the redemption money the name and designation of the person paying the same, the name of the person on whose behalf the payment is made and every redemption receipt shall be made out in triplicate, one copy shall be given to the person paying the redemption money, one shall remain on file in the office of the Treasurer, and the third shall be transmitted to the City Clerk by the Treasurer.

79. The Treasurer shall also immediately after the redemption of any land give notice by registered letter to the party appearing by his books to be the purchaser of the same, apprising him of the fact of such redemption and of the amount of money paid in for such purpose.

80. If the land be not redeemed within the period allowed by this Ordinance, then on demand of the purchaser, his heirs or assigns or other legal representatives at any time within one month after the expiration of the time limited for the redemption, upon payment of the balance of purchase money as aforesaid, and of the further sum of two dollars, the Treasurer shall prepare and execute and deliver to him or them a transfer of the land sold, provided that any land sold to the City of Calgary under the provisions of this Ordinance as hereinbefore provided shall be transferred by the Treasurer to the City of Calgary, immediately on the expiration of the time allowed for redemption without charge, such transfers shall be in the form or to the same effect as the form given in Schedule to this Ordinance, and shall state the date and cause of sale and the price and shall have the effect of vesting the land in the purchaser, his heirs, assigns and other legal representatives, in fee simple or otherwise, according to the nature of the estate sold, and no such transfer shall be invalid by reason of any error or miscalculation in the amount of taxes in arrear.

81. Such transfer shall not only vest in the purchasers all rights of property which the original holder had therein, but shall also purge and disencumber such land from all payments, charges, liens, mortgages and encumbrances of whatever nature and kind other than existing liens of the City or Crown, and whenever lands are sold for arrears of taxes, and the Treasurer shall have given a transfer thereof, such transfer shall, notwithstanding any informality or defect in or preceding such sale, be valid and binding to all intents and purposes, except as against the Crown, if the same has not been questioned before some Court of competent jurisdiction, by some person interested in the land so sold, within one year from the execution of such transfer, provided that any taxes shall have been due on the said land at the time of the sale, and that the *bona fide* holder of the title when questioned shall not have been guilty of or knowingly a party to any fraud against the provisions of this Ordinance, or in connection with the sale, transfer or assignment of the said land.

82. The Treasurer shall keep a separate account of all sums paid to him as a balance of purchase money on lands sold for arrears of taxes, and not redeemed, and shall enter in the book the amount received, over the taxes and charges from the purchaser of any lots sold by him, against said lot, with date of sale and of receipt of balance and the aggregate amount so received shall form a fund to be called tax sales fund, and the Treasurer shall in the month of January in each year, and on request at any other time, furnish a statement to the Council, giving the particulars respecting such funds, and whenever any portion of such fund shall have remained in the hands of the Treasurer for six years from the day of sale of the land, of which it forms a part of the purchase money, without any notice of claim or order for payment having been served on him as hereinafter provided, said portion or sum so remaining unclaimed shall have been forfeited and hereafter be the absolute property of the City and the said City shall forever be discharged from any claim on account thereof.

83. Any person claiming to have been the owner, heir, assignee or legal representative of the owner, or otherwise interested in any parcel of land sold for taxes and trans-

ferred as aforesaid, which shall have realized more than the amount due for taxes and charges, shall be entitled to claim and receive the said overplus or sum held to the credit of said parcel of land in the tax sale funds or any portion thereof specified in the order hereinafter mentioned, provided that a written notice is served upon the Treasurer previous to the time limited for forfeiture, and upon producing and leaving with the Treasurer, within six months from the date of service of such notice or claim, an order signed by the Judge of the Supreme Court having jurisdiction in the City of Calgary, reciting that it had been proved to the satisfaction of the said Judge that the claimant was at the time of sale the lawful owner of the land, in respect to which claim is made, or was or is the heir, executor, assignee or legal representative of the said owner or otherwise interested in the said land and requiring the City to pay the said surplus money or the portion thereof specified in the order to the said claimant, and such or any Judge's order for payment of any part of said tax sale funds shall be kept by the Treasurer and shall be the warrant and authority for making such payment.

84. In seeking to obtain a Judge's order any claimant upon said fund shall in person or by Advocate petition the Judge in writing for that purpose, describing the land sold and setting forth the particulars of said sale and the title under which the said money is claimed, and shall at the same time furnish such evidence of title as may be necessary for proving his title or interest to the satisfaction of the Judge, and the facts set forth in the petition shall be verified by affidavit so far as may be necessary to satisfy the Judge of the *bona fide* nature of the claim, and the said Judge may in his discretion require the claimant to serve a notice of his application upon the City, or publish the same in any manner he may deem proper, or substantiate his claim in any other manner, and the Judge may in his discretion order said money to be paid over to the Supreme Court, there to be dealt with in such manner as the Court shall order, and in such case a copy of his order stating the reason therefor shall be filed in the said Court and served upon the Treasurer.

85. The same fees shall be paid upon any application

made under the last preceding Section as are payable in respect of other applications in Chambers for a Judge's order in any suit or procedure.

86. In any case where the Judge deems it advisable to order notice to be served upon the City, he shall in the final decision of the question, if the claimant is successful, order the costs of the City to be paid out of the fund in question and, in case the claimant fails, shall order execution to issue against him from the said Court after taxation for the costs of the City.

87. The fact of claiming any surplus held to the credit of any lots sold for taxes in the said tax sale fund shall be considered an admission of the validity of the sale of the lot in question by the claimant, and the said claimant and all claiming by, through or under him shall from and after the time of making such claim be debarred from taking any proceeding to question or set aside such sale, notwithstanding that said claim shall have been made within the time otherwise limited, for taking any proceedings to invalidate any tax sale and said sale shall thereafter be held to be in all respects valid and binding as against the claimant and those claiming by, through and under him as aforesaid.

88. In case of any suit or proceeding to set aside or question a sale for arrears of taxes being commenced within two years and one month from the date of said sale, being the time within which only any such action can be brought or proceeding taken for that purpose, the plaintiff shall within ten days after stating his action or proceeding, cause the Treasurer to be notified in writing of the fact of his action or proceeding having been commenced, and the Treasurer in such case shall not forfeit any surplus held by him to the credit of the parcel of land in dispute, but shall hold the same subject to the order of any Judge or Court before whom the said action or proceeding shall or may be tried, and in case the plaintiff succeeds the Judge or Court shall order said surplus repaid to defendant, the tax sale purchaser or his proper representatives, and in case the plaintiff fails in such action or proceeding to set aside such sale but proves to the satisfaction of the Judge or Court



that he was at the time of sale the lawful owner of said land and the person entitled to the said surplus money according to the true intent and meaning of this Ordinance, then in such case the Judge or Court shall order such surplus money to be paid over to the plaintiff or his proper representatives upon and after payment by said plaintiff of such costs of defendant as he may have been ordered to pay.

89. In no case shall the City be liable for damages or costs in any suit brought to set aside a tax sale or be liable for any damages or costs arising therefrom in any way further than in case of sale held void by a competent Court refunding to the purchasers the amount of money actually received, with legal interest.

#### VOTERS LIST.

90. The Clerk of the City shall immediately after the final revision of the assessment roll by the Court of Revision in every year make a correct alphabetical list of all persons appearing on the assessment roll to be entitled to vote and possessed of the qualifications hereinbefore provided, prefixing to the name of each person his number on the roll.

91. The said list shall give the names of the voters in each Ward separately, and shall be in the form as nearly as possible given in the Schedule to this Ordinance.

92. The Clerk shall insert opposite the names the property on which the person is qualified.

93. Whenever it appears by the assessment roll that any person is assessed for property in the City sufficient to qualify him to vote but not enough in one Ward, the name of such person shall be placed on the list for each Ward in which he has property, followed by the words "See Ward No. " (filling in the blank with the number of the other Ward or Wards) but such person shall only be entitled to vote in one Ward.

94. Immediately after the Clerk has made the said list and within thirty days after the revision of the assessment

roll, the Clerk shall give public notice, either by printed posters or by advertisement once a week for four successive weeks in not less than one newspaper published in the City, that the said list has been completed and that the same will be kept in his office for thirty days from the first publication of such notice, for examination by all concerned, and any person who shall claim to be added to such voters list, or any elector who shall desire to have any name erased therefrom, shall prefer his request in writing signed with his name, stating the Ward to which he belongs and giving his reasons for his request, verified by his affidavit, and the said notice shall be delivered to the City Clerk within the said period of thirty days.

95. In case no complaint respecting such list is received by the Clerk of the City within thirty days after he has posted up the said list and published the said notice, the said Clerk shall apply to the Judge of the Supreme Court having jurisdiction in the City of Calgary, to certify to the said list as being the revised list of voters for the City, and such certificate shall be given by the said Judge on receiving from said Clerk an affidavit that no complaints have been received.

96. In case complaints are made respecting such list the City Clerk shall immediately obtain an appointment from the Judge to try the said complaints, and shall notify all parties complaining of the date set for hearing complaints, by registered letter addressed to them at Calgary, and the Clerk shall attend before the Judge on the said day with the assessment roll and voters list.

97. The Judge shall try the said complaints summarily in order as the same are filed and numbered by the City Clerk, or if not numbered, in such order as he may see fit, and may adjourn from day to day until he has finally disposed of all the complaints, dismissing summarily all cases in which the complainant does not appear and prosecute his complaint, and shall revise the list in accordance with the evidence produced, as he may deem just, provided that no name shall be struck off the said list unless it shall be shown to the Judge that the person, whose right to vote is objected to, has been personally notified to attend at such trial.

98. Immediately after the list has been finally revised by the Judge, he shall certify to the list as corrected, and shall sign a statement setting forth the changes, if any, which he has made in the list.

99. Immediately after the final revision of the voters list the Clerk shall cause at least one hundred copies of the said list to be printed in pamphlet form and shall post and keep posted one copy in his office and shall forward by mail one copy to each candidate for whom votes were given at the last Dominion, Territorial and Municipal elections, and shall dispose of the balance, except such as are required for conduct of election, as instructed by the Council.

100. In all proceedings before the Judge under this Ordinance, he shall have all the power with reference to settlement of the matters herein referred to that he has or possesses in reference to the trial of actions in the Supreme Court, and may order all necessary subpoenas to issue therefrom and make such order for payment of costs by the complainants or the corporation or any other party appearing before him as he may deem just, and enforce the same by execution issuing out of the said Court, provided that the said costs shall be on the lower scale of fees in the said Court and in no case includes Advocate's fees.

101. The Judge shall have power to engage such assistance either in the way of bailiffs or clerks as may be necessary for holding such Court, and shall certify to the Treasurer the necessary expenses of holding such Court and the amount thereof shall be paid by the Treasurer on demand.

102. The times appointed for the performance by the City Clerk and other officials of the duties required by this Ordinance shall be directory only to said Clerk and officials, and the non-performance by him or them of any of the said duties within the times appointed shall not render null, void or inoperative any of the lists in this Ordinance mentioned, but this clause shall not relieve said Clerk or officials from responsibility for non-performance of duties.

103. In case the City Clerk fails to perform any of the duties aforesaid, any voter or person entitled to vote may forthwith apply summarily to the said Judge on affidavit for a summons requiring the Clerk to appear before him and submit to examination on oath touching the matter in question and the Judge shall thereupon make such orders and give such directions as he may deem necessary or proper for the purposes aforesaid.

104. If the Clerk of the City omits or refuses to complete the voters list or to perform any of the duties required of him by this Ordinance, in connection with the same, he shall forfeit for each said offence a penalty not exceeding two hundred dollars.

105. If the Clerk or any other person wilfully makes an alteration, omission or insertion, or in any way wilfully falsities any such certified list or copy thereof or permits the same to be done, every such person shall be liable to a penalty not exceeding one thousand dollars and in addition thereto to the penalty provided for breach of this Ordinance

106. No person shall wilfully make, execute, accept or become a party to any lease, transfer or other instrument or become a party to any verbal arrangement whereby a colorable interest in any house, land or tenement is conferred in order to qualify any person to vote at any election and any person so doing or inducing or attempting to induce another so to do shall be liable to a penalty not exceeding one hundred dollars.

107. The penalties mentioned in the preceding two Sections shall be recoverable with costs of suit by any person suing for the same in a Court of competent jurisdiction.

#### BY-LAWS REQUIRING ASSENT OF ELECTORS.

108. The right of voting on by-laws requiring the assent of the electors shall belong to the following persons:—All persons who are qualified in other respects to vote for election of Municipal Council and who are rated on the



last revised assessment roll as owners of real property to the value of four hundred dollars or more.

(1) After a by-law requiring the assent of the electors has passed its second reading and before the date of submission of the same to the electors, the City Clerk shall prepare a list of persons who are entitled to vote on the proposed by-law in accordance with the preceding Section.

(2) In case a by-law requires the assent of the electors of the City before the final passing thereof, the following proceedings shall be taken for ascertaining such assent, except in cases otherwise provided for:—

(3) The Council shall by by-law fix the day, hour and places for taking the vote of the electors on the by-law when submitted to them, and shall also name the returning officers to take the votes at such places, and such day shall not be less than three nor more than five weeks after the first publication of the proposed by-law as herein provided for.

(4) The Council shall publish a copy of the proposed by-law at least once a week for three weeks before the day appointed for voting thereon in some newspaper published in the City.

(5) Appended to each copy so published shall be a notice signed by the Clerk of Council stating that such copy is a true copy of a proposed by-law which will be taken into consideration by the Council after being voted on by the electors, and stating the date of the first publication, and the day, hour and place or places fixed for taking the votes of the electors.

(6) At such day and hour a poll shall be taken and all proceedings thereat and for the purposes thereof, including a recount, shall be conducted in the same manner, as nearly as may be, as at an election for Mayor and Aldermen.

(7) The ballot papers shall be printed with "For the by-law," and "Against the by-law," and shall be marked by the voter with a cross on the right hand side thereof

opposite the words "For the by-law" or "Against the by-law," as he may desire to vote. Each deputy returning officer for the various Wards shall count the ballots and shall add up and verify the same, and make a return to the City Clerk as in the case of an ordinary election for Mayor and Aldermen.

(8) Upon receiving the returns from the deputy returning officers, the Clerk shall add up the same and if it shall appear from such returns that the total number of votes cast for such by-law be two thirds or more of the votes polled, the City Clerk forthwith shall declare such by-law carried, otherwise he shall declare the by-law lost.

109. The Council may under the formalities required by this Ordinance pass by-laws for contracting debts by borrowing money or otherwise, and for levying rates for payment of such debts on the ratable property of the City for any purpose within the jurisdiction of the Council but no such by-law shall be valid which is not in accordance with the following restrictions and provisions.

(1) The by-law shall name a day not more than three months from the day on which voting is to take place when the by-law shall take effect and the whole of the obligations to be issued for the debt authorized shall be dated as of the day on which the by-law takes effect, and shall be payable in thirty years at the furthest thereafter.

(2) The by law shall specify the amount in addition to all other rates to be levied in each year for paying the debt and interest, which amounts shall be sufficient to discharge the debt and interest when respectively payable.

(3) The by-law shall recite :—

(a) The amount of the debt which such new by-law is intended to create and, in some brief and general terms, the object for which it is to be created.

(b) The total amount to be raised annually by special rate for paying said debt and interest.

- (c) The amount of the whole ratable property according to the last revised assessment roll.
- (d) The total amount of the existing debt of the City outside of the debt due for the current expenses of the year.

110. Every by-law for raising upon the credit of the City, money not required for its ordinary expenditure and not payable from the revenue of the same Municipal year shall before its final passing receive the assent of the electors of the City in the manner provided for in this Ordinance and when such assent is received no such by-law shall be altered, amended or repealed except as hereinafter provided: all debentures and other securities duly authorized to be executed on behalf of the corporation shall be sealed with the seal of the Corporation and signed by the Mayor and the Clerk and countersigned by the Treasurer or signed or countersigned respectively by some other person or persons authorized by by-law to sign or countersign the same, otherwise the same shall not be valid.

112. Any debenture issued under the formalities required by law by the Corporation payable to bearer or to any person named therein or bearer may be transferred by delivery and such transfer shall vest the property of such debenture in the holder and enable him to maintain an action thereupon in his own name.

(1) In addition to the forms herein contained debentures may also be issued payable to any person or corporation or order and in such case shall be transferrable by endorsement in the same manner as a promissory note, but without recourse against the endorser, and any holder of said debentures properly endorsed to him shall have all rights of proceeding thereon granted to holder of debentures payable to bearer.

113. Any such debenture issued as aforesaid shall be valid and recoverable to the full amount notwithstanding its negotiation by the Corporation at a rate less than par.

114. In any case of passing a by-law for contracting a debt by borrowing money for any purpose as provided by

this Ordinance, such by-law may make the principal and interest of such debt repayable during the currency of the term within which the debt is to be discharged, in any of the following ways:—

(1) The principal in equal annual instalments during the said term, with interest annually or semi-annually on so much as remains unpaid.

(2) The principal in such amounts annually or semi-annually as added to the interest on the unpaid principal will make, as nearly as may be, equal payments every year during the said term.

(3) The principal payable at the expiration of the term provided by by-law and the interest payable annually or semi-annually.

115. In cases within the preceding Section it shall not be necessary for the Council to provide any sinking fund, but the Council may at any time provide that any unappropriated money in the possession of the City, arising from surplus revenue or from any other source, shall be appropriated for the formation of a sinking fund and be invested in such manner as the Council may determine and such money so appropriated shall remain to the credit of the debenture sinking fund, and be used only for the redemption of debentures.

116. The Council shall keep in its books separate accounts for the special rates collected, and for the instalments paid for every debt contracted by by-law, designating the account in some way to show the purpose for which the debt was contracted, and shall keep the said account with any other that may be necessary so as to exhibit at all times the state of every debt and the amount of money raised, obtained and appropriated therefor.

#### POWER OF THE COUNCIL TO PASS BY-LAWS.

117. The Council of the said City of Calgary may pass by-laws for:—

(1) The raising of its revenues by assessment on real



and personal property and income, authorizing the Mayor and Clerk, or any other person or persons on behalf of the City, to borrow from any person, bank or corporation, such sum or sums of money as may be required to meet the expenditure of the corporation until such times as the taxes levied therein can be collected, and the collection and expenditure of the same.

(2) The prevention of cruelty to animals, not being inconsistent with any Statute or Ordinance in that behalf.

(3) Granting aid to agricultural societies.

(4) Granting aid to hospitals.

(5) The relief of the poor.

(6) The appointing watchmen, police, patrols, and regulating and defining their duties and providing for their remuneration.

(7) Appointing such officials under such names as the Council may deem necessary for the carrying out the work of the Corporation, defining their duties and providing for their remuneration.

(8) The encouragement of the planting of trees and providing remuneration therefor, and providing for the protection thereof.

(9) Taking the census of the City.

(10) For preventing the posting of indecent placards, writings or pictures or the writing of indecent words or of making indecent pictures or drawings on walls or fences, within the limits of the City.

(11) For preventing vice, drunkenness, profane swearing, obscene, blasphemous or insulting language, fighting, disorderly conduct, and any other immorality and indecency on or near any street or in or near any public place or building within the limits of the City.

(12) For suppressing gambling houses, disorderly houses and houses of ill fame.

(13) For preventing and regulating horse racing.

(14) For restraining and punishing vagrants and mendicants within the limits of the City, and for preventing common begging, or persons in the streets from importuning others for help or aid in money, or deformed or malformed or diseased persons from exposing themselves or being exposed in the public streets to excite sympathy or induce help or assistance from general or public charity.

(15) For preventing or regulating swimming, bathing or washing the person in any public water in or near the City.

(16) For imposing a tax on the owners, possessors or harborers of dogs.

(17) For impounding, killing or disposing of by sale dogs running at large and unlicensed.

(18) For the prevention of keeping vicious dogs, or wild animals within the City, except under such restrictions as the Council provides.

(19) For providing for the health of the City, and against the spreading of contagious or infectious diseases.

(20) For appointing and defining duties of a board of health, health officers and scavengers.

(21) Re-subdividing the City into Wards, changing the number and boundaries of Wards, and providing for the election of one or more Aldermen for each Ward, subject to ratification by electors.

(22) Laying out, opening and changing, closing, building, extending and maintaining high-ways, roads, bridges, streets, lanes, alleys and by-ways and expropriating land therefor.

(23) The erection of halls, lock-ups, weigh houses, markets and such other buildings as the Council may deem beneficial for the City and to expropriate land therefor.

(24) The establishment and regulation of public markets, and the imposition of penalties for light weights and any breach of contract in public markets, restraining or preventing selling in the streets.

(25) Establishing public scales for weighing and measuring, and compelling the weighing or measuring thereon or thereby of anything sold by weight or measurement in the public Market, and establishing the fees to be paid for weighing or measuring on such scales, and compelling dealers in coal to weigh on such scales all coal sold by them, if requested to do so by the purchaser.

(26) Purchasing or otherwise obtaining, controlling or establishing parks, cemeteries, nuisance grounds or other properties for the use of the City, either within or without the limits of the City provided all such property without the said limits heretofore or hereafter acquired by the said City or Corporation, the property of which is hereby vested in the said City, shall be deemed to be part of the City, and shall be subject to all the provisions of this Ordinance, and any by-laws passed hereunder.

(27) Regulating the size and number of doors in churches, hotels, theatres, halls and other buildings used for places of public resort or worship, public meetings or places of amusement, and the street gates leading thereto, also the size and structure of stair and stair railings in all such buildings and the strength of beams and joists and their supports.

(28) Controlling and constructing sewers, drains, ditches, water courses and preventing the obstructing of same, building and repairing sidewalks, preventing the leading, driving, riding of horses or cattle thereon, or otherwise obstructing the same.

(29) Compelling the removal of dirt, filth or rubbish or any other obstructions off the highways, streets, lanes, alleys and by-ways, or public places of the City, by the party depositing the same, or in default removing same at his expense; compelling the removal from any place with-

in the City anything deemed dangerous to the health or lives of the inhabitants, preventing and regulating the construction of privy vaults and water closets and for providing for the keeping of the same in proper state of cleanliness and repair: compelling the owner of any lot or lots on which is a house or building to make proper connections with the public sewers, providing there is a sewer on the street or lane adjacent to his lot and in such case preventing the use or continuance of any water closets which are not properly connected with the said sewer: preventing or regulating the erection or continuance of slaughter-houses, gas works, tanneries, breweries, distilleries or other manufactories or trades which may prove to be nuisances, and preventing and abating nuisances generally.

(30) Preventing the encumbering of streets and other public places by vehicles, agricultural implements, lumber and other articles, regulating the pace of riding or driving within the City or any portion thereof.

(31) Regulating the keeping and transportation of gunpowder and other combustible and dangerous materials.

(32) Preventing the defacing of private or other property by printed or other notices.

(33) Regulating the rate or pace of riding or driving on bridges within or partially within the City; and the number of horses and cattle, sheep or pigs to be crossed thereon.

(34) Licensing, regulating and governing transient traders and other persons who occupy premises for temporary periods and whose names have not been duly entered on the assessment roll, in respect of income or personal property for the current year, and for fixing the sum to be paid for a license for exercising any and all such callings within the City, and the time such license shall be in force.

(35) Licensing, regulating and governing all persons who keep or have in their possession or on their premises any billiard, pool or bagatelle table in a house or place of public entertainment or resort, whether such table be used or not, and for fixing the sum to be paid for a license for



each such table, and the time such license shall be in full force.

(36) For limiting the number of and regulating victualing houses, ordinaries, and houses where fruit, oysters or victuals or liquid refreshments are sold to be eaten or drunk therein, and all other places for reception, refreshment or entertainment of the public and for licensing the same, and for fixing the rate for such licenses, not exceeding one hundred dollars per annum.

(37) For preventing or regulating and licensing exhibitors of wax-works, menageries, circuses, shows, theatres, caravans, and for requiring the payment of license fees for authorizing the same, not exceeding five hundred dollars per day and for imposing fines on persons infringing such by-laws to the amount of fifty dollars over and above the amount of the license fee and such fine and costs and fee may be levied by sale of the goods of the showman or the goods belonging to or used in connection with the show or exhibition, whether owned by the showman or not, and in addition the offender may be imprisoned for six months.

(38) For preventing or regulating and licensing exhibitions held or kept for hire or profit, halls, opera houses, bowling alleys and other places of amusement.

(39) For licensing, regulating and governing auctioneers and other persons selling or putting up for sale goods, wares, merchandise or effects by public auction, and for fixing the sum to be paid for every such license and the time it shall be in force.

(40) For the licensing, regulating and governing hawkers or pedlers or petty chapmen and other persons carrying on petty trades or who go from place to place or to other men's houses on foot or with any animal bearing or drawing any goods, wares, or merchandise for sale and for fixing the sum to be paid for a license for exercising such calling within the City and the time it shall be in force.

(41) For the controlling, regulating and licensing livery stables and sale stables, telegraph and telephone companies,

telegraph and telephone offices, insurance companies, offices and agents, real estate dealers, and agents, intelligence offices and employment offices or agents, butcher shops and stalls, skating, roller or curling rinks and all other kinds of business industries or callings carried on or to be carried on within the City, or commercial travellers or other persons selling goods, wares, merchandise or other effects of any kind whatsoever or offering the same for sale by sample cards, specimens or otherwise, for or on account of any merchant, manufacturer or other person selling direct to the consumer not having his principal place of business in the City and collecting license for the same.

(42) For licensing and regulating pawn shops, junk stores or shops and second hand stores and shops, and fixing the amount to be paid for license for same and the time such license shall be in force.

(43) For regulating and licensing scavengers and bill posters and preventing the pulling down or defacing of sign boards or written or printed notices lawfully affixed.

(44) For compelling people to remove all snow and ice from the roofs of the premises owned or occupied by them and to remove and clear away all snow, ice, dirt and other obstruction from the sidewalks adjoining such premises, and also to provide for the cleaning of sidewalks adjoining vacant property of non-residents and the property of any other persons who for twenty four hours neglect to clean the same and in case of non-payment of the expenses thereof by the owner or occupant, charging the same against the property as a special assessment to be recovered in like manner with the other City taxes.

(45) For directing the removal of door steps, porches, railings or other erections or obstructions projecting into or over any side walk, street or any other public place at the expense of the proprietor of the property connected with which such projections are found and assessing said expense if not paid against said lot or property.

(46) For preventing, regulating and removing barbed wire or other similar fences or any fences deemed unsafe

along or near streets or highways, also for compelling the owners of any vacant lot or lots to fence the same.

(47) For regulating and preventing the erection and maintenance within the limits of the City of telegraph, telephone, electric light or power poles and wires, or to order such poles to be removed.

(48) Regulating the size of bread loaves, and preventing the use of deleterious material in making bread, and providing for the seizure and forfeiture of bread made contrary thereto.

(49) Regulating the sale of any articles used for food or drink and providing for inspection of same, and for seizure and forfeiture of articles offered or exposed for sale contrary thereto.

(50) Allowing a rebate on all taxes paid before a time to be named in the by-law ; such rebate shall not exceed ten per cent. and the time fixed by the by-law shall not be less than thirty days from the passage of the by-law.

(51) Providing for exemption from taxes for the current year.

(52) Providing for the exemption from taxes for a longer period than one year subject to ratification by the ratepayers.

(53) Granting bonuses to manufactories, mills, railways, hospitals and other works of a public or a charitable nature, subject to the ratification of the ratepayers.

(54) Providing for lighting the municipality or any portion thereof in any way the Council may appoint and providing and erecting the necessary plant therefor, subject to ratification by electors.

(55) Authorizing the Mayor and the Clerk to sign any contract with any person or corporation to supply light or water for the use of the Corporation for any period not exceeding five years.

(56) Building, erecting or buying or leasing, controlling

and operating grist mills, elevators, telephone plant, electric light and power plant, gas and water works plant, or purchasing stock in any incorporated company carrying on or formed for the purpose of carrying on any of the said businesses, subject to the ratification of the ratepayers.

(1) For all purposes connected with the carrying on of any of the above works, the City is hereby authorized to purchase any lands either within or without the limits of the City and to enter into any contract necessary for the proper carrying on of said businesses, and generally to conduct said works and businesses arising in connection therewith either by the Council or by Commissioners, or agents appointed for the purpose, as fully and freely and with all the power and rights they would have if specially incorporated for the purpose of carrying on said business.

(2) In case the City engage in any of the businesses heretofore referred to the Council shall have power to appoint by by-law Commissioners for the purpose of carrying on such businesses or any of them and all necessary contracts in connection therewith may be done and performed in the name of the said Commissioners who shall be called "Electric Light Commissioners" "Telephone Commissioners" or as the case may be, and by that name shall have all the powers for properly carrying on the business which is herein granted to the City.

(57) Establishing a Fire Department, appointing the Officers thereof, regulating and providing for their remuneration and prescribing their duties.

(58) Providing protection from fire by the purchase of engines and equipment, and in such other ways as the Council may deem proper.

(59) Compelling the inhabitants to assist and aid in the extinguishment of fires, pulling down and razing buildings in the vicinity of fires for the purpose of preventing the spread of the same.

(60) Regulating fire districts.



(61) Regulating the erecting of buildings and preventing the erection of wooden buildings or additions thereto and wooden fences in specified parts of the City, and prohibiting the erecting or placing of buildings other than with main walls of brick, iron, concrete or stone and roofing of incombustible material, within defined areas of the City and prohibiting the removing of any building of the kind prohibited by the said by-law from one part of said area to another and regulating the construction of chimneys as to dimensions and otherwise, and enforcing the proper cleaning of the same and preventing the use of stove pipe or other outlet deemed by the Council unsafe and authorizing the pulling down or removal, at the expense of the owner, of any building or other erection which may be constructed or placed in contravention of any by-law.

(62) Generally establishing such measures as the safety and welfare of the City may, in the opinion of the Council, require for the prevention and extinguishment of fires.

(63) Appointing and regulating the remuneration, fees, charges and duties of Poundkeepers and the security to be given by them for performance of the same.

(64) Providing yards, buildings and enclosures for the use of pound-keepers and for the safe-keeping of any such animals as it may be their duty to impound.

(65) Restraining and regulating the running at large or trespassing of any animals or fowls, providing for impounding same, and for causing same to be sold, in case they are not claimed within a reasonable time to be fixed by the by-law or in case the damages, fees, and expenses are not paid.

(66) Providing for the appraisalment of damages to be paid by the owner of animals, or fowls, impounded for trespassing.

(67) Determining the compensation to be allowed for services rendered in carrying out the provisions of any by-law with respect to animals or fowls impounded.

(68) For appointing street and building inspectors and providing their duties, and providing for the summary removal of any pole or wire or other obstruction from the street, or for the pulling down and removal of any building or other erection within the City which shall be deemed dangerous by such inspectors.

(69) To purchase or otherwise acquire any land situated in the said City or within two miles thereof for the establishment of manufactories thereon and to grant such lands or any part thereof by way of bonus or otherwise as may be deemed expedient to any person or company establishing manufactories thereon or within the said City, such grant to be subject to ratification of electors.

(70) To open up and maintain a street or highway leading from the said City across the Elbow river to such point on the Macleod trail south of the said river as may be deemed expedient in order to secure a more direct route to the cemetery owned by said City and also for purpose of such highway, to construct a bridge across and over said Elbow river and the necessary approaches thereto and to expropriate or purchase such lands either within or without the said City, as may be necessary for such purposes.

(71) To construct through, over and upon lands lying beyond or outside of the limits of the City such drains and sewers as may be deemed expedient to secure the proper drainage of said City and the disposal of the sewerage thereof.

(72) To open streets or lanes through any lands within the said Municipality upon receiving the consent of two-thirds of the land owners, whose lands are effected by such openings, and to close or change streets or lanes or portions thereof now opened upon receiving the consent of two-thirds of the owners of the land facing the street or lane or portion thereof proposed to be dealt with.

[73] To widen any street or any part thereof by adding thereto a portion of the lots facing thereon on either or both sides thereof on receiving a petition requesting the same signed by the owners of two-thirds of the lots facing

said street or portion affected and said lots being valued by the last revised assessment roll at least half as much as the total assessment of all the lots affected.

[74] To name or number the streets or avenues and to change the names and numbers, or any of them, of streets and avenues now existing or hereafter laid out within the said City.

[75] To authorize any corporate street railway or railways or tramway company to lay down tracks and operate their railway or tramway upon any of the streets, avenues, squares or other public places of the said City, subject to such regulations as the Council may make for any period not exceeding twenty-five years, and to make regulations in respect to same and for protection of same.

[76] For subscribing for a number of shares in the capital stock of or lending to or guaranteeing the payment of any sum of money borrowed by any incorporated street or other railway company, bridge company, water power company, or other corporation.

[77] Granting bonuses to any railway, street railway, bridge, or water power or other company.

[78] Issuing debentures for any or all the purposes mentioned in the preceding sub-section with or without interest payable at such times and in such amounts as the Council may think proper and for handing such debenture to any such company or to trustees on such conditions as may be provided by the by-law; provided that the powers granted by this and the preceding three sub-sections shall not be exercised until a by-law shall have been submitted in the manner herein provided for by-laws requiring the consent of ratepayers.

[79] For sanctioning and permitting the track of any railroad to be laid in, on, or along any street or avenue in said City and to provide compensation for any damage that may be done to the property on said streets or avenues. The amount of said damage [if any] to be settled in the manner provided herein in regard to expropriation of land; and to regulate the use of locomotive engines and of steam

or of other motor power on any or every portion of any railroad within the City and to provide and regulate the the speed of cars upon any and every part of any railroad within the City and to impose a penalty not exceeding five hundred dollars for any breach of said by-law.

[80] For regulating the rate of speed of railway trains and engines along or across any of the streets or avenues of the City, and preventing the obstructing of any streets or avenues by leaving, keeping or allowing to stand thereon any engine, train, car or cars or truck for a longer period than five minutes at a time, and preventing the loading or unloading of any car or truck along side or from any street crossing or sidewalk in the City and blowing of whistles or ringing of bells while the engine is going along or across any street or avenue, except under conditions mentioned in by-law and imposing a penalty for breach of said by-law not exceeding five hundred dollars.

(a) In any proceedings taken for infraction of by-laws passed under the two preceding sub-sections service of necessary documents upon any resident employee of the railroad shall be good service upon the owners of the railroad, and both the owners of the railroad and the persons in charge of the engine, car, truck or train, shall be liable for the penalty provided in by-law, and proceedings may en against either or both.

#### QUASHING BY-LAWS.

118. In case a ratepayer of the City applies to a Judge of the Supreme Court having jurisdiction therein, and produces to said Judge a certified copy of any by-law, order or resolution of the Council and shows by affidavit that the same was received from the City Clerk and that the affiant is a ratepayer of the City, the judge may grant a summons returnable not less than ten days after service, requiring the City to show cause why its said by-law, order or resolution should not be quashed on the grounds set forth in the said summons and upon return thereof the judge may quash the by-law, order or resolution in whole or in part for illegality, and according to the result award costs for or against the City.



119. No application to quash any by-law, order or resolution in whole or in part shall be entertained by any Judge unless such application is made within twenty days from the passing of such by-law, order or resolution except in the case of a by-law requiring the assent of the ratepayers, when such by-law has not received the assent of such ratepayers ; and in such case the application may be made to quash such by-law at any time.

120. Any by-law the passage of which has been secured by or through means of any corrupt practice as defined by this Ordinance, shall be liable to be quashed upon application made in conformity with the provisions hereinbefore contained.

121. Before determining any application for the quashing of a by-law on the grounds that the same has been passed by means of corrupt practice as defined by this Ordinance, and if it is made to appear to the Judge that probable grounds exist for a motion to quash such by-law, he may make an order for an enquiry to be held upon such notice to the parties interested as the Judge may direct concerning said grounds before himself or such other person as he may appoint to conduct such enquiry, and to require that upon such enquiry all witnesses both against and in support of such by-law be orally examined and cross-examined upon oath ; the Judge after the taking by or return to him of such evidence as the case may be, upon notice to such of the parties concerned as he thinks fit, may proceed to hear and determine the question, and if grounds therefor appear to him to be satisfactorily established, he may make an order for the quashing of such by-law, and may make an order that the costs attending such proceedings be paid by the parties or any of them who shall have supported the by-law, and if it appears that the application to quash such by-law ought to be dismissed, the said Judge may so order, and may order costs to be paid by the person or persons applying to quash such by-law.

122. After a summons to show cause or an order for an enquiry has been served on the City all further proceedings on any such by-law, order or resolution shall be staid until after the Judge has disposed of the application, but if the

matter is not proceeded with to the satisfaction of the Judge he may remove the stay of proceedings.

123. In case a by-law, order or resolution is illegal in whole or in part and in case anything has been done thereunder which by reason of such illegality gives any person a right of action, such action shall not be brought until one month has elapsed after the by-law, order or resolution has been quashed or repealed nor until one month's notice in writing of the intention to bring such action has been given to the City and such action shall be brought against the City alone and not against any person acting under the by-law, order or resolution.

124. In case the City tenders amends to the Plaintiff or his agent or advocate if such tender is pleaded and [if traversed] proved and if no more than the amount tendered is recovered the plaintiff shall have no costs, but the costs shall be taxed to the defendants and set off against the verdict and the balance due to either party shall be recovered as in ordinary cases. A cheque of the City payable to the claimant shall constitute a legal tender of payment of any claim against the City except a claim founded on a check or note.

125. The provisions of the two preceding Sections as to notice and tender shall apply to all suits and actions against the City from whatever cause they may arise.

126. No by-law shall be set aside on account of corrupt practices provided the passage thereof was not affected by such corrupt practices.

127. All proceedings taken in respect of quashing by-laws, orders or resolutions shall be entitled "In the Supreme Court of the North-West Territories," and the party making application shall be the plaintiff and the City of Calgary the defendant, and the procedure and costs shall be the same, as near as may be, ordinarily in use for Chamber applications in said Court.

#### EXECUTIONS AGAINST THE CITY.

128. Any writ of execution against the City may be endorsed with a direction to the Sheriff to levy the amount

thereof by rate and the proceedings therein shall be as follows:—

(1) The Sheriff shall deliver a copy of the Writ and endorsements to the City Treasurer with a statement in writing of the amount required to satisfy such execution including fees and interest, and shall demand payment of same.

(2) In case the amount demanded is not paid to the Sheriff within thirty days after such delivery the Sheriff shall examine the assessment roll of the City and shall, in like manner as rates are struck for general City purposes, strike a rate on the dollar sufficient to cover the amount claimed with such addition to the same as the Sheriff deems sufficient to cover his fees, collector's percentage and interest to the time when same will probably be available.

(3) The Sheriff shall thereupon issue a warrant or warrants under his hand and seal of office directed to the collector or collectors of the City and reciting the writ and the fact that it has not been satisfied and referring to the assessment roll and the amount thereof and the rate he has struck shall command the said collector or collectors to levy such rate at the time and in the manner by law required in respect to the general annual rate of the City.

(4) In case at any time for levying the annual rate next after the receipt of such warrant or warrants the collector or collectors have a general rate roll delivered to them for such year he or they shall add a column thereto headed "Execution rate in A.B. vs. The City of Calgary" as the case may be adding similar columns if there are more executions than one and shall insert therein the amounts payable by each person or property respectively and shall levy the amount of such execution rate as aforesaid and shall within the time they are required to make the returns of the annual rate return to the Sheriff the warrant or warrants with the amount levied thereon after deducting their percentage.

(5) The Sheriff after satisfying the execution and all fees thereon shall pay any surplus within ten days after

receiving the same to the Treasurer for the general purposes of the City.

(6) Any balances of execution rate not collected by the Collector shall remain as a charge against the person or property charged therewith, and shall be collected in the same manner as the ordinary annual rate.

(7) The Collector shall be paid for his services, in connection with the said rate, a percentage of two per cent. on the amount collected and paid over by him.

(8) The Clerk, Assessor and Collector of the City shall, for the purpose of carrying into effect or permitting the Sheriff to carry into effect the provisions of this Ordinance with respect to executions, be deemed to be officers of the Court from which such executions issued and, as such, may be proceeded against by attachment, mandamus or otherwise, to compel them to perform the duties necessary for the purpose of carrying out the provision hereof.

(9) In case the office of Clerk, Assessor or Collector is vacant, the Sheriff may under his hand and seal of office appoint a person or persons to perform the duties of such office in so far as the same may be necessary for the proper carrying out of the provisions hereof, and in his levy may provide for the payment of such person or persons subject to taxation by the Judge.

#### EXPROPRIATIONS.

129. The Council of the City of Calgary shall have full power and authority to order by by-law the opening, extending or widening of streets, lanes, public places, markets, parks, squares and highways, or the construction of public buildings, drains, water courses or sewers, and to order at the same time that such improvements should be made out of the City funds, or that the costs shall be assessed in whole or in part upon the pieces or parcels of land belonging to parties interested in or benefitted by the said improvements, and to purchase, acquire, take and enter into any land, ground or real property whatsoever within the limits of the said



City, either by private agreement, amicable arrangement between the Council of said City and the proprietors or other persons interested, or by complying with the formalities hereinafter prescribed, for opening streets, lanes, public places, markets, parks, squares and highways, or for continuing and enlarging or improving same, or as a site for any buildings to be erected by the said Council or for any other purpose for which the City is herein authorized to act and for which it requires to use land.

(1) All corporations or bodies and all persons, guardians, executors, administrators or trustees who are or shall be seized or possessed or interested in any piece or pieces, lot or lots of ground or real property within the said City selected by the said Council for any of the purposes afore said, may not only for themselves, but for and on behalf of all persons whom they represent, or for whom, or in trust for whom they are or shall be seized or possessed or interested, whether minors, issue unborn, lunatics, idiots, married women or other persons, contract for, sell and convey or transfer such piece or pieces, lot or lots of ground or real property to the said City, and such contracts, sales, conveyances and transfers shall be valid and effectual in law for conveying the said property to "The City of Calgary," and vesting the same in said City to all intents and purposes whatsoever, any law or custom to the contrary notwithstanding.

And the City of Calgary shall not in any case be responsible for the application of the purchase money and all corporations and persons so contracting, selling, conveying or transferring as aforesaid are hereby indemnified for and in respect of such sales made in pursuance of this Ordinance without however diminishing in any manner the responsibility of such persons or corporations towards those whom they represent as regards the purchase money or compensation for such sales.

(2) In case the Council of the said City after having resolved upon undertaking and carrying out any of the said works or improvements for which it is necessary to acquire one or more lots of ground or real property cannot come to an amicable arrangement with the person seiz-

ed or possessed of, upon any title whatsoever, or interested in said lots of ground or real property or any part thereof, or who may be absent or unknown, as regards the price or compensation to be paid for the said lot of ground or property or any part thereof (the said Council however shall not be bound to take any step or proceeding toward securing such amicable arrangements) such price or compensation shall be fixed and determined in the following manner, to wit:—

(3) The Council of the said City by their advocate shall give special notice addressed through the post office to the person in whose name the property was lastly assessed on the assessment roll at his actual or last known domicile and shall also give public notice by three insertions in at least one newspaper published in the City that they will by or through their said advocate present on the day and hour mentioned in the said notice to a Judge of the Supreme Court sitting at Calgary in Chambers a petition calling on the said Judge to choose and nominate three competent and disinterested persons to act as Commissioners to fix and determine the price or compensation to be allowed for each and every lot of ground or property, or any part thereof, which may be required for the said improvements and which shall be designated in the said notice by a general description and by reference to a map or plan in the office of the advocate and one week at least shall elapse from the date of the last insertion of the said notice in said newspaper to the day appointed for the presentation of the said petition; and a copy of the said notice shall be posted on or in the neighborhood of the property to be so expropriated. Provided always that said Council may serve or cause to be served the owner or owners of any such property personally with such notice in writing stating a time not less than one week when application will be made to the Judge for the appointment of such commission and such personal service shall be good in place of all publishing and mailings.

(4) The Judge to whom the said petition shall have been presented, shall appoint three Commissioners as aforesaid and fix the day upon which the said Commissioners shall begin their operations and also the day on which they shall

make their report, but may afterwards extend the time for making report on good cause shown to him.

(5) The order embodying the said appointment shall be served with as little delay as possible upon the said Commissioners, who shall be held to accept the said office and shall perform the duties thereof under the penalty of a fine of one hundred dollars which it shall be competent for the said Judge to inflict upon each of said Commissioners upon proof of his or their refusal or neglect to perform the said duties.

(6) If one or more of the said Commissioners at any time after their appointment shall fail in the due performance of the duties assigned to him or them in and by this Ordinance, or shall not fulfil the said duties in a faithful, diligent and impartial manner, it shall be lawful for the Council, by its advocate, to apply by summary petition to the said Judge to stay the proceedings of the said Commissioners and to remove and replace the Commissioner or Commissioners who may have forfeited or violated his or their obligations or neglected their duties, or to appoint one or more Commissioners in the place of any whose services may have been or may be dispensed with for any cause; and upon such petition the said Judge may make such order as he may deem proper and conformable with justice.

(7) Immediately after the appointment of the said Commissioners it shall be the duty of the Council to furnish them with a map or plan showing the proposed improvements as also the pieces or parcels of ground to be expropriated.

(8) The Commissioners before proceeding shall make and Subscribe a declaration under oath in form provided in Schedule hereto, and they shall be entitled to receive a remuneration not exceeding ten dollars per day each during the whole time they of necessity shall be occupied in the performance of the said duties, but the Council may, if they think fit, have the bill taxed on this scale by the Clerk of the Court or Judge.

(9) The said Commissioners may, if they deem proper, call upon the proprietors or parties interested to give them inspection of their title deeds and upon their refusing to comply with such demands, the Commissioners are hereby authorized to procure copies of said deeds at the cost of the said proprietors or parties interested and the amount of said costs shall be deducted from the price or compensation to be finally awarded to the said proprietors or parties interested.

(10) It shall be the duty of the said Commissioners to diligently proceed to appraise and determine the amount of the price, indemnity or compensation (if any) which they shall deem just and reasonable for each of the pieces or parcels of land or real estate, the expropriation whereof shall have been resolved on by the City Council, for the damages (if any) caused by such expropriation. The said Commissioners may act and adjudicate upon the pieces or parcels of land and real estate, buildings or parts of buildings thereon erected, required for any improvements which the said Council may have ordered to be made or carried out at one and the same time and the said Commissioners are hereby authorized and required to hear the parties interested or such of them as attend and their witnesses as well as the members of the Council and their witnesses, but said examination shall be *via voce*, and the answers shall be reduced to writing and shall form part of the report to be made by the Commissioners, provided that if in the discharge of the duties devolving on the said Commissioners by virtue of this Ordinance, there shall occur a difference of opinion between them as to the value of the land to be expropriated or upon any other question within their province, the decision of any two of said Commissioners shall have the same force and effect as if all had concurred therein.

(11) In every case when the Council of the said City may have resolved to carry out and execute any of the works or improvements aforesaid, the said Commissioners shall be held to determine and award, when the expropriation shall apply to or affect but a portion of the property or real estate, what may be the damage to or deterioration in value of the residue of the property or real estate by the



separation from it of the part required by the said Council and they shall determine first the intrinsic value of the part of the property or premises taken, and secondly the increased value (if any) of the residue of the property caused by the proposed improvements, and thirdly the damage or depreciation (if any) that may be caused to the residue of the property by reason of the expropriation of a part thereof. And the difference between the intrinsic value of the portion taken and the increased value aforesaid, or the sum of the intrinsic value of the portion taken and the amount of damage as aforesaid shall constitute the price or compensation which the parties interested shall be entitled to. And when the Commissioners shall determine and award that the increased value is equivalent to or in excess of the intrinsic value of the part taken, then they shall not award any price or compensation for the part so required or liable to expropriation.

(12) In case any of the Commissioners should after being appointed die or be unable to act, the said Judge shall upon summary application by the Council either *ex parte* or on such notice as he may direct, replace such Commissioner by another competent and disinterested person upon whom the office shall be binding in the same manner as upon his predecessor.

(13) So soon as the said Commissioners shall have completed the proceedings relating to the appraisement, and determined the compensation for the pieces or parcels of land or property about to be expropriated, they shall give one week's public notice by means of a poster to be posted upon or in the immediate vicinity of such pieces or parcels of land or real property, that on the day mentioned in said notice all parties interested or claiming indemnity who may consider themselves aggrieved by the said appraisement shall be heard before them in the City Hall or Council Chamber or a room connected therewith, and when such parties or so many as may attend shall have been heard as aforesaid, it shall be lawful for the commissioners to maintain or modify at their discretion the appraisement made by them.

(14) On the day fixed by the order appointing the said Commissioners, the Council of the said City of Calgary, by

their advocate, shall submit to the said Judge the report containing the appraisement of the said Commissioners for the purpose of being confirmed to all intents and purposes and the said Judge may thereupon after hearing any or all of the parties interested therein, who may appear, pronounce the confirmation of the said report which judgment shall be final as regards all parties interested and not subject to any appeal.

(15) The Council of the said City shall within one month from and after the confirmation by the Judge of the report of the Commissioners make in the hands of the Clerk of the Supreme Court at Calgary, whose duty it shall be to give to the Council a written acknowledgment thereof, a deposit of the price or compensation and damages settled and determined in and by the said report, and the fact of said deposit shall constitute on behalf of the said City a legal title to the property of the said pieces or parcels of real estate, and from thence all proprietors of or other persons whatsoever interested in the said pieces or parcels of real estate shall lose or be divested of all right or claims thereto except such as may be reserved by such report and "The City of Calgary" shall be vested with the said pieces or parcels of land or real estate subject as aforesaid, and may of right and without any further formalities enter in the possession and use of the same, any law, statute, ordinance or usage to the contrary notwithstanding.

(16) Any expropriation made by virtue of this Ordinance shall have the effect of removing and paying of all mortgages, liens or privileges with which the said parcel or parcels of land or real estate may be burdened or encumbered at the time, but the price or compensation deposited in the hands of the Clerk of the Supreme Court, as aforesaid, shall be held to represent the parcel or parcels of land or real estate as regards all mortgages or privileged creditors whose rank and priority shall be preserved in the distribution to be made of money deposited, and such distribution shall be made and determined by the said Judge or Court in such manner as may be deemed advisable and just to the parties interested.

(17) All the provisions contained in the foregoing clauses with regard to the appointment of Commissioners and the

mode of ascertaining the value of real estate taken by the Council of said City, shall be and are hereby extended to all cases in which it shall become necessary to ascertain the amount of compensation to be paid by the said Council to any proprietor of real or personal property or his representatives for any damages he or they may have sustained by reason of any alteration made by order of the said Council in the line or level of any street, foot path or sidewalk or by reason of the removal of any establishment or building subject to removal under any by-law of the Council and for which the Council is liable to pay, or to any party by reason of any other act of the Council for which they are bound to make compensation, and with regard to the amount of compensation for which damage the Council and the party sustaining damage are not able to agree and the amount of such compensation shall be paid at once by the Council to the party entitled to the same without further formality, but any person who has or shall have hereafter erected any building whatever upon or contiguous to any established street or square in the said City, without having previously obtained from the City Engineer the level or line of said street or square, shall not have any claim for damages or compensation by reason of any injury to the property or buildings when such level or line shall be settled or determined by said Council.

(18). Special assessments under the authority of this clause shall be made in the same manner and subject to the same appeal and governed by the same decision and collected by the same process as is provided by this Ordinance in case of ordinary assessments or under the local improvements clauses of this Ordinance as the Council may determine.

#### SURVEYS.

130. All future surveys of property within the City by owners and others, shall be subject to the approval of the City Engineer, and no plan shall be registered which does not, in addition to the other requirements of law, have a certificate of approval signed by the City Engineer.

#### LOCAL IMPROVEMENTS AND SPECIAL ASSESSMENTS THEREFOR.

131. The term "local improvement," or "improvements,"

shall, unless the context indicates otherwise, be taken to mean the opening, widening, straightening, extending, grading, leveling, macadamising, laying, paving or planking any street or alley, lane, way or place, sidewalk or bridge, or the curbing, sodding or planking any street, lane, alley, square, or the making, deepening, enlarging or prolonging any ditch, drain or sewer, or the reconstruction, but not the mere repair or maintenance, of any of the said works.

132. The term "special frontage assessment" shall be taken to mean a rate charged according to the lineal measure along the front of the several lands fronting or facing the place whereon or wherein the improvement is to be made.

133. The Council of the City of Calgary may pass by-laws for:—

(1) Ascertaining and finally determining what portion (if any) of the cost of any local improvement should be borne by the City at large.

(2) Assessing by way of a special assessment the cost or portion of cost of any local improvement upon the lands fronting upon the streets or places whereon or wherein the improvement is to be made, and for levying such cost or portion thereof by a special rate upon said lands.

(3) Regulating the time or times in which the rates for such improvements are to be paid.

(4) Borrowing by the way of temporary loans upon the credit of the city, any moneys required to meet the cost of any local improvement and for borrowing by the issue of debentures upon the credit of the city at large, or upon the credit of the special frontage assessment and the property liable therefor, any money required to meet the cost of any local improvement or required to re-pay any temporary loan made for that purpose, provided such loan or debentures shall not, if made on the credit of the City at large, increase the general debt, beyond the limit fixed by this Ordinance, and provided that such debentures shall mature



within the probable life of the improvements as certified by the Committee or official having charge of the same.

134. No assessment or levy shall be made under any by-law passed under sub-section two of the preceding Section except upon petition to the Council of at least two-thirds in number of the registered owners of the lands fronting on the street or place whereon or wherein the improvement is proposed to be made, representing at least one-half of the value of such land, excluding all improvements thereon.

135. The request of the petition may be acceded to by the Council, either in respect of the whole, or of a part of the street or place proposed to be improved, providing that part only of such street or place as described in the petition shall not be improved unless the petition is signed as required by the last preceding Section, having regard only to the lands fronting on such part of the street or place.

136. After the Council have resolved to grant the request of any such petition in whole or in part as aforesaid it shall be lawful for the said Council in the same or succeeding year to carry on the proposed improvements or service to completion before making the assessment therefor and such petition so presented shall stand good as authority for undertaking any such improvement and making such assessment or assessments and passing all necessary by-laws whether the improvements shall have been or shall be undertaken and completed by the Council to whom such petition is presented or by the Council in the succeeding year.

137. There shall be a right of appeal against every assessment or rating made under the authority of any by-law passed under the local improvement Sections of this Ordinance to a Court of Revision composed of the City Council and from such Court of Revision to a Judge of the Supreme Court in the same manner and by the same procedure, as nearly as may be, as in case of appeal from any ordinary assessment.

138. Notice of every proposed special frontage rate shall be given by the Assessor to the registered owners or addressed to the last post office address of each such owner

known to the Assessor, or if no other is known, addressed to Calgary, of every parcel of land to be charged therewith, by registered letter, and such notice shall set forth:—

(1) The probable lifetime of the proposed improvements being the period over which the cost will be spread.

(2) The probable (or actual) cost of improvements.

(3) The value of land chargeable with the special frontage rate (exclusive of all improvements thereon).

(4) The portion (if any) of the cost to be borne by the City at large.

(5) The proportions on which the cost (or balance thereof) is to be borne by the several lands chargeable.

(6) The time fixed for the sittings of the Court of Revision for hearing of appeals in respect of the assessment and proposed special rate, such sittings to be not earlier than fifteen days from the date of mailing or giving notice.

139. A memorandum by the Assessor in any proper book or roll kept for the purpose of the giving or mailing of such notices and of the date thereof shall be *prima facie* evidence of the giving or mailing of such notices in accordance with the last preceding Section of the date mentioned in the memorandum.

140. The decision of the Court of Revision or of a Judge, if there be an appeal from the Court of Revision, shall be final and conclusive on all matters respecting the assessment and special rate.

141. Every by-law passed for borrowing money for local improvements except by way of temporary loan shall recite:—

(1) The amount of the debt which such by-law is intended to create and the object in general terms for which it is to be created.

(2) The total amount to be raised annually by special rate for paying the debt and interest under the by-law.

(3) The value of the whole land charged with the special assessment and if any portion not exceeding one-third of the debt is to be borne by the City at large the value of the whole ratable property according to the last revised assessment roll.

(4) The annual special rate on the dollar or per foot frontage as the case may be for the payment of interest and principal of the debt or the proportion thereof not payable by the City at large as the case may be and if any portion is to be paid by the City at large the annual special rate necessary to pay the same principal and interest.

(5) That the debt is contracted on the credit and security of the City at large but as to so much as is not to be paid by the City at large the City is to collect the same only by way of special frontage tax, as aforesaid, or that the debt is contracted on the security of the property benefitted and the special frontage tax only.

142. No by-law passed hereunder shall require the assent of the electors, provided however that if the Council in any case of local improvement provides that more than one-third of the total cost of the improvements shall be paid by the City at large and such sum shall be greater than can properly be paid out of the current revenue of the year during which the improvement is made, then and in every such case the Council shall pass a separate by-law for the portion of money to be borrowed by the City at large, and said by-law shall receive the assent of the electors, in the manner hereinbefore provided.

143. Assessment for local improvements may be made either in accordance with the assessed value of the land benefitted at so much per dollar, or by a rate of so much per lineal foot on the frontage thereof facing the street, or place of improvement, and the manner of assessment desired shall be set forth in the petition hereinbefore mentioned and if the latter method be chosen the Assessor shall, subject to the appeal as before mentioned, decide whether

all lands facing on the street or place are equally benefitted and, if not, in what proportions they should contribute.

#### MISCELLANEOUS PROVISIONS.

144. In any action brought against the City to recover damages sustained by reason of any obstruction, excavation or opening in any public highway, street or place, made, left or maintained by any corporation, or by any person other than a servant or agent of the City, the City shall have a remedy over against the other corporation or person for, and may enforce payment accordingly of the damages and costs, if any, which the plaintiff in the action may recover against the City, provided, however, that the City shall only be entitled to such remedy over, if the other corporation or person shall be made a party to the action, and the City may, in any such case, have the said corporation or person added as a party defendant, or third party, for the purposes hereof, if the same is not already a defendant in the action jointly with the City, and the other corporation or person may defend such action as well, the plaintiff's claim, as the claim of the City to a remedy over, and the Court or Judge upon the trial of the action may order costs to be paid to any of the parties thereto or in respect of any claim set up therein, as in other cases.

145. Any matter or thing done, resolution, decision, order or other proceeding of the Council, or of the previously existing corporation, debentures, notes, stock and obligations issued, and all by-laws or rules now in force in the City of Calgary or in the municipality now erected into The City of Calgary, made in conformity with the Ordinances relating to the said municipality, or in conformity with the general Municipal Ordinance, shall continue in full force and effect to all intents and purposes the same as if this Ordinance had not been passed, until they shall be legally altered, amended or repealed, as the case may be, by virtue of this Ordinance, or except as the same may be changed or altered by virtue of this Ordinance, provided however, that in any action or proceeding taken thereunder wherein the name of the Municipality may occur, it shall, notwithstanding anything contained in any by-law, proceeding or Ordinance, be referred to as The City of Calgary.



146. The printed copies of all by-laws passed and to be passed hereafter by the Council and purporting to be printed by authority thereof, or any copies certified by the City Clerk of said by-laws shall be admitted as *prima facie* evidence thereof in all Courts in the Territories and on all occasions whatsoever.

127. No member or officer of the Council and no member of any board organized under or in connection with the City Government pursuant to any law or by-law, shall in his official capacity or under color of his office knowingly or wilfully or corruptly vote for, assent to or report in favor of; or allow or certify for allowance any claim or demand against the City or any department thereof, or against any such board as above mentioned, which claim or demand shall be on account or under color of any contract or agreement not authorized by or in pursuance of the provisions of this Ordinance, or any claim or demand against the City or any department thereof, or any board as aforesaid, which claim or demand or any part thereof shall be for work not in fact performed for and by authority of said City or board, or for supplies or materials not actually furnished thereto pursuant to law or by-law, and no such member or officer as aforesaid shall knowingly vote for, assent to, assist or otherwise permit or aid in the disbursement or disposition of any money or property belonging to the City or any department thereof, or held by or in charge of any such board as aforesaid, to any other than the specific use or purpose for which such money or property shall be or shall have been received or appropriated or collected, or authorized by law to be collected, and any such member or officer as aforesaid who shall violate any of the foregoing provisions of this Section shall, upon conviction thereof, be punished by imprisonment for not more than one year, or by fine of not more than two thousand dollars, or by both fine and imprisonment.

148. Any person who shall violate any of the provisions of this Ordinance, for the violation of which no punishment has been provided therein, shall be liable to be punished by imprisonment for any term not more than one year, or to be fined not more than five hundred dollars, or to both such fine and imprisonment.

149. Any person who shall violate any of the provisions of any by-law of The City of Calgary passed, or which may hereafter be passed, under the authority of this Ordinance, which by-law shall not contain any provision for punishment for breach thereof, shall be liable on summary conviction before the Police Magistrate of the City of Calgary, or any Justice of the Peace having jurisdiction therein, to a penalty not exceeding one hundred dollars, or imprisonment for any term not exceeding six months, or to both fine and imprisonment.

150. Any provision herein contained in regard to a Police Magistrate shall be held to take effect from and after the date on which a Police Magistrate having jurisdiction within The City of Calgary shall be appointed.

151. Any person who shall violate any of the provisions of this Ordinance for which no mode of trial is provided, shall be tried summarily by any Justice of the Peace or the Police Magistrate for the City of Calgary, or a Judge of the Supreme Court, on sworn information, and may be called upon to attend by summons or warrant, as the Justice, Magistrate or Judge may decide.

152. The Council shall make provisions for the salary of a Police Magistrate or so much thereof as shall not be paid by the Local or Dominion Government, and shall provide him with proper and sufficient accomodation and, if necessary, shall appoint and pay a Police Court Clerk to assist in the proper administration of justice within the City.

153. The salary of the Police Magistrate shall be such sum per year as the Council shall by by-law appoint, and all fees and costs accruing under or by virtue of any by-law, ordinance or statute to said Magistrate in regard to offences committed within the City, shall be by him paid to the City Treasurer and form part of the general funds of the City.

154. The duties of all officers of the City shall be as provided in this Ordinance, and in addition thereto, as provided in by-law appointing same, but nothing contained in any by-law, rule, order or resolution, shall be held to de-

tract from or lessen the obligations to perform the duties herein provided for.

155. In case the Council at any time passes a resolution requesting the Judge of the Supreme Court having jurisdiction in the City or the Police Magistrate for the City to investigate any matter to be mentioned in the resolution and relating to a supposed or suspected malfeasance, breach of trust or other misconduct on the part of any member of the Council or officer of the corporation or any person having a contract therewith in relation to the duties of such person or persons or obligation to the corporation or in case the Council sees fit to cause enquiry to be made into or concerning any matter or thing connected with the good government of the City or the conduct of any part of the public business thereof and if the Council at any time passes a resolution requesting the said Judge or Magistrate to make enquiry the Judge or Magistrate shall enquire into the same and shall for that purpose have full power to summons witnesses before him and to compel them to give evidence upon oath or affirmation either orally or in writing, to produce and bring with them such books, documents and things that he may think requisite for the complete and full investigation of such matters as aforesaid and the Judge or Magistrate shall have the same power to enforce the attendance of witnesses and to compel them to give evidence and generally to conduct the enquiry as is vested in any Court of Law in the Territories in civil cases and the Judge or Police Magistrate shall with all convenient speed report to the Council the result of the enquiry and the evidence taken thereon and the cost of the enquiry which shall include a fee of not more than ten dollars per day for each day necessarily taken by the Judge or Magistrate in said enquiry, and such costs shall be forthwith paid by the City Treasurer.

156. All evidence in any proceeding, enquiry or trial provided for in this Ordinance, may be taken down in shorthand by a reporter sworn to properly take down, report, and copy the same, and a report thereof in writing or type-writing, certified by the reporter, shall be of the same effect as though written down at the time of trial and signed by the person giving evidence.

157. In this Ordinance whenever the expression "Judge" or "Court" is used, it shall mean the Supreme Court of the North-West Territories, or any Judge thereof having jurisdiction in the City of Calgary, and any application or proceeding taken may be taken before any Judge sitting either in Court or Chambers, and all documents necessary for use in connection with any such proceedings or trial before such Judge or Court shall be entitled "In the Supreme Court of the North-West Territories."

158. Every public street, road, square, or other highway within the City shall be vested in the City and shall be kept in repair by the corporation and such public street, square, lane or highway shall not be interfered with in any way or manner whatever by excavation or otherwise by any person or corporation, whether such person or corporation now enjoy or heretofore have enjoyed or exercised such powers or not except such person or corporation shall first have made application to, and received permission from the Council in writing, and such permission shall state the amount of, and manner in which the required work is to be done and shall be strictly complied with.

159. All lands conveyed to the corporation whether within or without the limits of the City and under whatever name, are hereby vested in The City of Calgary with full power to the Council or their successors to dispose of the same in any manner or whenever desired or deemed necessary.

160. The Council shall be at liberty and are hereby empowered to borrow from any chartered bank either by promissory note or over draft, any sum of money required for ordinary expenditure in and for the maintenance of the City pending the collection of taxes or for any other expenditure pending the realization of debentures issued or to be issued under authority of any by-law.

161. The Board of School Trustees for the City of Calgary shall give notice to the City Clerk on or before the fifteenth day of November in each year of the number of vacancies required to be filled to make the said Boards complete and the elections to fill such vacancies shall be



held on the same day and in the same manner as elections for the City Council.

(1) In every case in which notice is given as provided in this Section, the nomination and election of School Trustees shall be held at the same time and place and by the same returning officer and deputies and conducted in the same manner as election for City Council and the provisions of this Ordinance respecting time for opening and closing polls, mode of voting, corrupt practices, vacancies and declarations of office shall *mutatis mutandis* apply to the election of School Trustees of both Public and Separate Schools, provided, however, that such Trustees shall, until otherwise provided, be elected generally for the City and not for wards.

(2) In the list of qualified voters to be delivered to the Returning Officers by the Clerk before the opening of the poll, the Clerk shall place opposite the name of any persons on the said list who have been returned to him as supporters of a Separate School the letters "S.S.S." and the Returning Officer shall deliver to said voter ballots for Separate School Trustees and to all other voters ballots for Public School Trustees.

(3) Separate sets of ballot papers shall be prepared by the City Clerk containing the names of the candidates nominated for School Trustees of the same form as those used in election for City Council except that they shall be headed respectively "Public School Trustees" and "Separate School Trustees."

(4) The qualification for voters and candidates shall be the same as those for voters and candidates in the election for City Council and the same oaths shall be administered in case of objection to vote with the addition following:—  
"And I am a supporter of the Public or Separate (as the case may be) School of the City of Calgary."

162. Whereas by By-law No 171 passed the 19th day of April, 1892, the said Corporation of the Municipality of the Town of Calgary granted to Donald McLean a bonus of \$3900.00 to assist in erecting a grist mill and no debentures

have been yet issued for the said sum or any portion thereof,

The City of Calgary is hereby authorized and empowered to issue debentures for the said sum of \$3000.00 with interest at five per cent., principal and interest payable within thirty years in any of the methods hereinbefore provided for payment of loans.

163. Whereas by By-law No. 179 passed the 23rd day of August, 1892, the said Corporation of the Municipality of the Town of Calgary granted to J. Spencer Brisco a bonus of \$800.00 to assist in erecting a tannery and no debentures have yet been issued for the said sum or any portion thereof. The City of Calgary is hereby authorized and empowered to issue debentures for the said sum of \$800.00 with interest at five per cent., principal and interest payable within thirty years in any of the methods hereinbefore provided for payment of loans.

164. All debentures issued under authority of the preceding three Sections shall be of such date not more than three months after the passing of this Ordinance as the Council may by by-law order.

165. Any Justice, Magistrate or Judge, before whom any charge may be laid, of a breach of this Ordinance, or of any by-law passed by said Council, shall have all the powers for amendment of documents, adjournment of time and generally in regard to the conduct of the case which are granted to Justices, Magistrates or Judges in connection with summary trials in criminal matters.

166. The City of Calgary shall have authority and is hereby empowered under the provisions herein contained and subject to all the regulations of this Ordinance to borrow money or incur liabilities to the extent of ten per cent. of the valuation of the property in the City according to the Revised Assessment Roll and no more, and any debentures or other securities issued in excess of such amount shall be void, but this Section shall not apply to or be held to include money borrowed or liabilities incurred by any School Board in the City.

167. Notwithstanding anything herein contained any affidavit, oath or declaration herein provided for or authorized may be taken before any Notary Public in said City.

168. Notwithstanding anything herein contained the Council may, by by-law, provide that any two or more offices in connection with the City be filled by the same person, except that the office of Auditor shall not be united with any other office.

169. The present Mayor and Councillors of the Town of Calgary shall continue to hold office under the name of Mayor and Aldermen of The City of Calgary and shall have full power and authority to perform all the duties and exercise all powers as though elected under the provisions hereof until the thirty-first day of December, 1893, or until their successors are appointed or elected under the provisions hereof.

170. For the first election hereunder the Council and officials shall make all necessary arrangements as nearly as possible in accordance with the requirements hereof and shall make voters lists in accordance with the provisions hereof and based on the last voters list prepared by the Clerk.

171. The first meeting of the Council elected hereunder shall be on the first Monday in January, 1894, and the first meeting of each Council hereafter elected shall take place on the first Monday in January, not being New Years Day, of each year thereafter, said meetings to be in the City Hall at eight o'clock in the evening.

172. In all cases in which in this Ordinance it is provided that the Council may license any business, building, calling, trade or occupation, or the keeper of any articles or animals for use or hire, the Council shall also have full power and authority by by-law to provide regulations in connection therewith and governing the conduct of same, and providing the manner of collecting of such licenses, and providing penalties for not having such license and for breach of conditions on which such licenses are issued, and

also for fixing fees to be charged for such licenses, and regulating the prices or fees to be charged by the holders of such licenses, and providing for the collection or payment of the same, and generally for the protection of those persons holding licenses.

173. The imposing and collecting of license fees shall not in any case be held to prevent the assessing of property used by license holders in the same manner as other property, and collection of taxes thereon.

174. Notwithstanding anything herein contained, the Council shall have full power and authority by resolution at any time to order the closing up for a temporary period, to be named in such resolution, of any street or lane or portion thereof by fencing or otherwise when improvements are being made on a said street, or buildings being erected which in the opinion of the Council require the use of the street or lane or a portion thereof, and such time may be extended by resolution from time to time until said improvements or building are completed.

175. All fines and penalties herein provided for shall, unless otherwise specially mentioned, be paid to the City Treasurer and form part of the general fund of the City.

176. This Ordinance shall come into effect upon the first day of January next, after a majority of two-thirds of the resident ratepayers has been recorded in favor of its adoption, and the Lieutenant-Governor has been satisfied by such proof, as he may require, that such vote has been properly taken and that two-thirds of the resident ratepayers have voted for its adoption.

#### INTERPRETATION CLAUSE.

Unless otherwise declared or indicated by the context, whenever any of the following words occur in this Ordinance the meanings hereinafter expressed shall attach to the same, namely:—

(1) The word "Council" means the Council of The City of Calgary.



(2) The words "land" "lands" "real estate" "real property" respectively include lands, tenements and hereditaments and all rights thereto and interests therein.

(3) The words "street" "highway" "road" "bridge" mean respectively a public street, highway, road or bridge.

(4) The words "electors" or "voters" mean the persons entitled for the time being to vote at elections in said City.

(5) The word "City" means the City of Calgary.

(6) The word "Corporation" means the Corporation of the City of Calgary,

(7) The word "property" means both real and personal property.

(8) The words "his" or "him" mean any person male or female.

(9) "Assessor" shall be held to mean one or more assessors.

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*Oath of Qualification for Member of Council.*

I, \_\_\_\_\_, do solemnly swear that  
I am duly qualified in all respects under the provisions of the Ordinance  
incorporating The City of Calgary for the office of

to which I have been elected and that I am the  
owner of real estate in my own name in said City to at least the value of  
one thousand dollars over and above all liens and encumbrances thereon.  
So help me God.

Sworn before me at Calgary,

this day \_\_\_\_\_ day of

189

---

*Oath of Office for Members of Council and all Officials  
thereof.*

I, \_\_\_\_\_, do solemnly swear  
that I will truly, faithfully and impartially to the best of my knowledge  
and ability fulfil the duties of the office of

to which I have been elected (or appointed) in the City of Calgary and  
that I have not received and will not receive any payment or reward or  
promise of such for the exercise of any partiality or neglect or undue ex-  
ecution of the duties of said office, and that I have not by myself or by or  
on behalf of any other person either directly or indirectly any interest in  
any contract with or on behalf of the said City or with or on behalf of any  
board or official doing business on behalf of said City in connection with  
any matter in which said City is interested. So help me God.

Sworn before me at Calgary

this \_\_\_\_\_ day of

189

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*Oath to be Taken by all Persons authorized to be present  
at an Election.*

I, \_\_\_\_\_, do solemnly swear that I will not at any time disclose to anyone the name of any person who has voted at the election to be held in the City of Calgary on the \_\_\_\_\_ day of \_\_\_\_\_ 189 \_\_\_\_\_ and that I will not unlawfully attempt to ascertain the candidate or candidates for whom an elector has voted and will not in any way aid in the unlawful discovery of same and that I will keep secret all knowledge which may come to me of the person for whom any elector has voted;

(or and I will not unlawfully attempt to ascertain whether any person has voted for or against the by-law to be submitted to the electors on such day and will keep secret all knowledge that may come to me as to how any person shall have voted thereon.) So help me God.

Sworn before me at Calgary

this \_\_\_\_\_ day of  
189 \_\_\_\_\_

---

*Additional Oath of Returning Officer, Deputy Returning  
Officer and Poll Clerk, at any Election.*

I, \_\_\_\_\_, do solemnly swear that I will truly, faithfully and to the best of my knowledge and ability perform the duties of the office of \_\_\_\_\_ to which I have been appointed for the City of Calgary. So help me God.

Sworn before me at Calgary

this \_\_\_\_\_ day of  
189 \_\_\_\_\_

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*Oath to be taken by Commissioners or Arbitrators.*

I, \_\_\_\_\_, do solemnly swear that I will well and truly try the matter referred to me, and a true and impartial award make in the premises according to the evidence to the best of my skill and knowledge. So help me God.  
Sworn before me at Calgary  
this \_\_\_\_\_ day of \_\_\_\_\_  
189 \_\_\_\_\_

/ ———

*Transfer of Land by Treasurer of the City of Calgary.*

KNOW ALL MEN by these presents that whereas the Treasurer of The City of Calgary, by virtue of authority vested in him by the Ordinance incorporating The City of Calgary, did on the \_\_\_\_\_ day of \_\_\_\_\_ one thousand eight hundred and ninety \_\_\_\_\_ sell by public auction the land hereinafter mentioned for arrears of taxes to

for the sum of \_\_\_\_\_ lawful money of Canada, and the said land not having been redeemed within the time limited by law, and the said \_\_\_\_\_ having paid the said money, I, the Treasurer of said City, do hereby transfer to the said \_\_\_\_\_, his heirs and assigns, the following land, that is to say :

In Witness Whereof, I have hereunto set my hand and the Seal of The City of Calgary this \_\_\_\_\_ day of \_\_\_\_\_ 189 \_\_\_\_\_  
[SEAL] \_\_\_\_\_ Treasurer.

—————



# ASSESSMENT ROLL, WARD No. 189 FOR THE CITY OF CALGARY

CITY OF CALGARY.

379

| No. on Roll. | Name of Taxable Person. | Occupation. | Address. | Owner. | Tenant. | Income. | Supporter Public Schools. | Supporter Sep. Schools. | Total No. of Household. | Resident. | Non Resident. | Built on. | Vacant. | No. of Horses. | No. of Cattle. | No. of Pigs. | Street or other designation. | Lot. | Block. | Section. | No. of Acres if undivided. | Value of Lot or Parcel without Improvements. | Value of Buildings and other Improvements. | Total Value of Real Property. | Value of Assessable Personal Property. | Amount of Income Assessable. | Total Amount of Assessment of Pub. School Supporter. | Total Amount of Assessment of Sep. School Supporter. | Remarks. |
|--------------|-------------------------|-------------|----------|--------|---------|---------|---------------------------|-------------------------|-------------------------|-----------|---------------|-----------|---------|----------------|----------------|--------------|------------------------------|------|--------|----------|----------------------------|----------------------------------------------|--------------------------------------------|-------------------------------|----------------------------------------|------------------------------|------------------------------------------------------|------------------------------------------------------|----------|
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